

Adopted	Rejected
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COMMITTEE REPORT

YES:	16
NO:	5

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1899, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 insurance and labor.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 5-10-8-6.5 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 1999]: **Sec. 6.5. (a) A member of the general assembly may elect**
- 8 **to participate in either:**
- 9 (1) the plan of self-insurance established by the state police
- 10 department under section 6 of this chapter;
- 11 (2) the plan of self-insurance established by the state
- 12 personnel department under section 7 of this chapter; or
- 13 (3) a prepaid health care delivery plan established under
- 14 section 7 of this chapter.
- 15 (b) A former member of the general assembly who meets the

1 **criteria for participation in a group health insurance program**
 2 **provided under section 8(e) or 8.1 of this chapter may elect to**
 3 **participate in either:**

4 **(1) the plan of self-insurance established by the state police**
 5 **department under section 6 of this chapter; or**

6 **(2) a group health insurance program provided under section**
 7 **8(e) or 8.1 of this chapter if the former member meets the**
 8 **criteria for participation in that program.**

9 SECTION 2. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Any firm, individual,
 11 partnership, limited liability company, or corporation that is awarded
 12 a contract by the state, a political subdivision, or a municipal
 13 corporation for the construction of a public work, and any
 14 subcontractor of the construction, shall pay for each class of work
 15 described in subsection (c)(1) on the project a scale of wages that may
 16 not be less than the common construction wage.

17 (b) For the purpose of ascertaining what the common construction
 18 wage is in the county, the awarding governmental agency, before
 19 advertising for the contract, shall set up a committee of five (5) persons
 20 as follows:

21 (1) One (1) person representing labor, to be named by the
 22 president of the state federation of labor.

23 (2) One (1) person representing industry, to be named by the
 24 awarding agency.

25 (3) A third member to be named by the governor.

26 (4) One (1) taxpayer who pays the tax that will be the funding
 27 source for the project and resides in the county where the project
 28 is located. The owner of the project shall make the appointment
 29 under this subdivision.

30 (5) One (1) taxpayer who pays the tax that will be the funding
 31 source for the project and resides in the county where the project
 32 is located. The legislative body (as defined in IC 36-1-2-9) for the
 33 county where the project is located shall make the appointment
 34 under this subdivision.

35 (c) As soon as appointed, the committee shall meet in the county
 36 where the project is located and determine in writing the following:

37 (1) A classification of the labor to be employed in the
 38 performance of the contract for the project, divided, **where**

1 **applicable, into the following ~~three (3) classes:~~ two (2) skill**
 2 **levels:**

3 (A) Skilled labor, **including journeymen.**

4 (B) ~~Semiskilled labor~~ **Apprentice labor.**

5 ~~(C) Unskilled labor.~~

6 (2) The wage per hour to be paid **to** each of the ~~classes:~~
 7 **classifications and skill levels.**

8 The committee is ~~not~~ required to ~~consider~~ **make determinations based**
 9 **on** information ~~not~~ presented to the committee at the meeting.
 10 IC 5-14-1.5 (open door law) applies to a meeting of the committee.

11 (d) The rate of wages determined under subsection (c) shall not be
 12 less than the common construction wage for each **trade or craft**
 13 **classification and each** of the ~~three (3) classes of wages~~ **two (2) skill**
 14 **levels** described in subsection (c) that are currently being paid in the
 15 county where the project is located.

16 (e) The provisions of this chapter shall not apply to contracts let by
 17 the Indiana department of transportation for the construction of
 18 highways, streets, and bridges. IC 8-23-9 applies to state highway
 19 projects.

20 (f) A determination under subsection (c) shall be made and filed
 21 with the awarding agency at least two (2) weeks prior to the date fixed
 22 for the letting, and a copy of the determination shall be furnished upon
 23 request to any person desiring to bid on the contract. The schedule is
 24 open to the inspection of the public.

25 (g) If the committee appointed under subsection (b) fails to act and
 26 to file a determination under subsection (c) at or before the time
 27 required under subsection (f), the awarding agency shall make the
 28 determination, and its finding shall be final.

29 (h) It shall be a condition of a contract awarded under this chapter
 30 that the successful bidder and all subcontractors shall comply strictly
 31 with the determination made under this section.

32 (i) The provisions of this chapter do not apply to public projects in
 33 this state that would otherwise be subject to the provisions of this
 34 chapter that are to be paid for in whole or in part with funds granted by
 35 the federal government, unless the department of the federal
 36 government making the grant shall consent in writing that the
 37 provisions of this chapter are applicable to the project.

38 (j) Notwithstanding any other law, the provisions of this chapter

1 apply to projects that will be:

2 (1) owned entirely; or

3 (2) leased with an option to purchase;

4 by the state or a political subdivision (as defined in IC 36-1-2-13).

5 (k) Notwithstanding any other law, this chapter does not apply to
6 **new construction** projects in which the actual construction costs less
7 than one hundred fifty thousand dollars (\$150,000) **or a maintenance,**
8 **remodel, or repair project that costs less than one hundred**
9 **thousand dollars (\$100,000).**

10 **(l) If a common wage is required, the committee appointed for**
11 **the project under subsection (b) shall meet at a set time and at a**
12 **designated public place each week.**

13 SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 1999]: Sec. 4. The definitions in this section
15 apply throughout this chapter:

16 (1) "Common construction wage" means a scale of wages for each
17 ~~class~~ **classification** of work described in section 1(c)(1) of this
18 chapter that is not less than the common construction wage of all
19 construction wages being paid in the county where a project is
20 located **for similar types of construction**, as determined by the
21 committee described in section 1(b) of this chapter, ~~after having~~
22 ~~considered:~~ **based on the evidence of the following:**

23 (A) Reports ~~from~~ **or survey data gathered by** the department
24 of workforce development ~~and (B) or the United States~~
25 **Department of Labor.**

26 **(B) Current wages payable to workers under the terms of**
27 **applicable collective bargaining agreements between bona**
28 **fide organizations of labor and employees that apply or**
29 **pertain to the county in which the public work is located.**

30 **(C) Any other objectively verifiable information showing**
31 **wages actually paid to construction workers in the county**
32 **where the project is located** submitted by any person to the
33 committee established under section 1(b) of this chapter.

34 **The determined scale of wages must include costs incurred or**
35 **reasonably anticipated in providing benefits to workers for**
36 **training and apprenticeships or other similar programs,**
37 **medical care, hospital care, and pension benefits. However,**
38 **this chapter does not require the purchase of or participation**

1 **in a particular health insurance plan, pension plan, or benefits**
2 **plan.**

3 (2) "State of Indiana" includes any officer, board, commission, or
4 other agency authorized by law to award contracts for the
5 performance of public work on behalf of the state, excepting as
6 otherwise provided in this chapter.

7 (3) "Municipal corporation" includes any county, city, town, or
8 school corporation, as well as any officer, board, commission, or
9 other agency authorized by law to award contracts for the
10 performance of public work on behalf of any such municipal
11 corporation. The term also includes a redevelopment commission
12 established under IC 36-7-14-3.

13 (4) "Public work" includes any public building, highway, street,
14 alley, bridge, sewer, drain, improvement, or any other work of any
15 nature or character whatsoever which is paid for out of public
16 funds, excepting as otherwise provided in this chapter.

17 **(5) "Apprentice" means a person:**

18 **(A) employed and registered in a bona fide apprenticeship**
19 **program registered with the United States Department of**
20 **Labor, Employment and Training Administration, Bureau**
21 **of Apprenticeship and Training; or**

22 **(B) employed in the first ninety (90) days of probationary**
23 **employment as an apprentice in an apprenticeship**
24 **program, who is not individually registered in the**
25 **program, but who has been certified by the Bureau of**
26 **Apprenticeship and Training as eligible for probationary**
27 **employment as an apprentice.**

SECTION 5. IC 6-3-8-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 7. (a) As used in this section "retaliatory obligations" means any taxes, fines, penalties, fees, or other similar obligations that are imposed by another state upon insurance companies of Indiana, or their agents, that are greater than those that are required for insurance companies organized in the other state.**

(b) An insurance company organized under the laws of Indiana is entitled to a credit against the tax imposed under this chapter equal to the following:

STEP ONE: Determine the result of:

(A) the sum of the retaliatory obligations paid to other states; minus

(B) for all states included in clause (A), determine the sum of the like obligations that would be imposed on the taxpayer if it were treated like an insurance company organized in each of these states.

STEP TWO: Determine the result of:

(A) the STEP TWO amount; multiplied by

(B) for the taxable years beginning in the following years:

(i) for 2000, twenty percent (20%);

(ii) for 2001, forty percent (40%);

(iii) for 2002, sixty percent (60%);

(iv) for 2003, twenty percent (80%); and

(v) for 2004 and thereafter, one hundred percent (100%).

If the STEP TWO amount exceeds the company's supplemental net income tax liability, then the taxpayer may carry the excess over to the immediately succeeding taxable years. The credit carryover may not be used for any taxable year that begins more than five (5) years after the year that the credit was determined. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

SECTION 6. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: **Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's ~~adjusted gross income~~ or apportioned income for the**

1 privilege of exercising its franchise or the corporate privilege of
 2 transacting the business of a financial institution in Indiana. The
 3 amount of the tax for a taxable year shall be determined by multiplying
 4 eight and one-half percent (8.5%) times the remainder of:

5 (1) the taxpayer's ~~adjusted gross income~~ or apportioned income;
 6 minus

7 (2) the taxpayer's deductible Indiana net operating losses as
 8 determined under this section; minus

9 (3) the taxpayer's net capital losses minus the taxpayer's net
 10 capital gains computed under the Internal Revenue Code for each
 11 taxable year or part of a taxable year beginning after December
 12 31, 1989, multiplied by the apportionment percentage applicable
 13 to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

14 A net capital loss for a taxable year is a net capital loss carryover to
 15 each of the five (5) taxable years that follow the taxable year in which
 16 the loss occurred.

17 (b) The amount of net operating losses deductible under subsection
 18 (a) is an amount equal to the net operating losses computed under the
 19 Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2,
 20 that are:

21 (1) incurred in each taxable year, or part of a year, beginning after
 22 December 31, 1989; and

23 (2) attributable to Indiana.

24 (c) The following apply to determining the amount of net operating
 25 losses that may be deducted under subsection (a):

26 (1) The amount of net operating losses that is attributable to
 27 Indiana is the taxpayer's total net operating losses under the
 28 Internal Revenue Code for the taxable year of the loss, adjusted
 29 for the items set forth in IC 6-5.5-1-2, multiplied by the
 30 apportionment percentage applicable to the taxpayer under
 31 IC 6-5.5-2 for the taxable year of the loss.

32 (2) A net operating loss for any taxable year is a net operating loss
 33 carryover to each of the fifteen (15) taxable years that follow the
 34 taxable year in which the loss occurred.

35 (d) The following provisions apply to a combined return computing
 36 the tax on the basis of the income of the unitary group when the return
 37 is filed for more than one (1) taxpayer member of the unitary group for
 38 any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 7. IC 6-5.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 3. For a ~~nonresident~~ taxpayer that is not filing a combined return, the taxpayer's apportioned income consists of the taxpayer's adjusted gross income for that year multiplied by the quotient of:

(1) the taxpayer's total receipts attributable to transacting business in Indiana, as determined under IC 6-5.5-4; divided by

(2) the taxpayer's total receipts from transacting business in all taxing jurisdictions, as determined under IC 6-5.5-4.

SECTION 8. IC 6-5.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 4. For a taxpayer filing a combined return for its unitary group, the group's apportioned income for a taxable year consists of:

(1) the aggregate adjusted gross income, from whatever source derived, of the ~~resident taxpayer members of the unitary group and the nonresident~~ members of the unitary group; multiplied by

(2) the quotient of:

(A) all the receipts of the ~~resident taxpayer members of the unitary group from whatever source derived plus the receipts of the nonresident~~ taxpayer members of the unitary group that are attributable to transacting business in Indiana; divided by

(B) the receipts of all the members of the unitary group from transacting business in all taxing jurisdictions.

SECTION 9. IC 6-5.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 1. This chapter applies to ~~the following~~:

1 ~~(1) Nonresident all~~ taxpayers.

2 ~~(2) Nonresident members of a unitary group that file a combined~~
3 ~~return.~~

4 SECTION 10. IC 22-3-3-4 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) After an injury
6 and prior to an adjudication of permanent impairment, the employer
7 shall furnish or cause to be furnished, free of charge to the employee,
8 an attending physician for the treatment of his injuries, and in addition
9 thereto such surgical, hospital and nursing services and supplies as the
10 attending physician or the worker's compensation board may deem
11 necessary. If the employee is requested or required by the employer to
12 submit to treatment outside the county of employment, the employer
13 shall also pay the reasonable expense of travel, food, and lodging
14 necessary during the travel, but not to exceed the amount paid at the
15 time of the travel by the state to its employees under the state travel
16 policies and procedures established by the department of
17 administration and approved by the state budget agency.

18 (b) During the period of temporary total disability resulting from the
19 injury, the employer shall furnish the physician services, and supplies,
20 and the worker's compensation board may, on proper application of
21 either party, require that treatment by the physician and services and
22 supplies be furnished by or on behalf of the employer as the worker's
23 compensation board may deem reasonably necessary.

24 (c) **No representative of the employer or insurance carrier,**
25 **including case managers or rehabilitation nurses, may be present**
26 **at any treatment of an injured employee without the express**
27 **written consent of the employee and the treating medical**
28 **personnel. At the time of any medical treatment that a**
29 **representative of the employer wishes to attend, the representative**
30 **of the employer shall inform the injured employee and treating**
31 **medical personnel that their written consent is required before the**
32 **attendance of the employer's representative. The employee's**
33 **compensation and benefits may not be jeopardized in any way due**
34 **to the employer's failure or refusal to complete a written waiver**
35 **allowing the attendance of the employer's representative. The**
36 **employer's representative may not in any way cause the employee**
37 **to believe that the employee's compensation and benefits will be**
38 **terminated if the employee fails or refuses to complete a written**

1 **waiver allowing the attendance of the employer's representative.**
 2 **The written waivers shall be executed on forms prescribed by the**
 3 **board.**

4 ~~(c)~~ (d) After an employee's injury has been adjudicated by
 5 agreement or award on the basis of permanent partial impairment and
 6 within the statutory period for review in such case as provided in
 7 section 27 of this chapter, the employer may continue to furnish a
 8 physician or surgeon and other medical services and supplies, and the
 9 worker's compensation board may within the statutory period for
 10 review as provided in section 27 of this chapter, on a proper application
 11 of either party, require that treatment by that physician and other
 12 medical services and supplies be furnished by and on behalf of the
 13 employer as the worker's compensation board may deem necessary to
 14 limit or reduce the amount and extent of the employee's impairment.
 15 The refusal of the employee to accept such services and supplies, when
 16 provided by or on behalf of the employer, shall bar the employee from
 17 all compensation otherwise payable during the period of the refusal,
 18 and his right to prosecute any proceeding under IC 22-3-2 through
 19 IC 22-3-6 shall be suspended and abated until the employee's refusal
 20 ceases. The employee must be served with a notice setting forth the
 21 consequences of the refusal under this section. The notice must be in
 22 a form prescribed by the worker's compensation board. No
 23 compensation for permanent total impairment, permanent partial
 24 impairment, permanent disfigurement, or death shall be paid or payable
 25 for that part or portion of the impairment, disfigurement, or death
 26 which is the result of the failure of the employee to accept the
 27 treatment, services, and supplies required under this section. However,
 28 an employer may at any time permit an employee to have treatment for
 29 his injuries by spiritual means or prayer in lieu of the physician or
 30 surgeon and other medical services and supplies required under this
 31 section.

32 ~~(d)~~ (e) If, because of an emergency, or because of the employer's
 33 failure to provide an attending physician or surgical, hospital, or
 34 nursing services and supplies, or treatment by spiritual means or
 35 prayer, as required by this section, or because of any other good reason,
 36 a physician other than that provided by the employer treats the injured
 37 employee during the period of the employee's temporary total
 38 disability, or necessary and proper surgical, hospital, or nursing

1 services and supplies are procured within the period, the reasonable
 2 cost of those services and supplies shall, subject to the approval of the
 3 worker's compensation board, be paid by the employer.

4 ~~(e)~~ (f) Regardless of when it occurs, where a compensable injury
 5 results in the amputation of a body part, the enucleation of an eye, or
 6 the loss of natural teeth, the employer shall furnish an appropriate
 7 artificial member, braces, and prosthodontics. The cost of repairs to or
 8 replacements for the artificial members, braces, or prosthodontics that
 9 result from a compensable injury pursuant to a prior award and are
 10 required due to either medical necessity or normal wear and tear,
 11 determined according to the employee's individual use, but not abuse,
 12 of the artificial member, braces, or prosthodontics, shall be paid from
 13 the second injury fund upon order or award of the worker's
 14 compensation board. The employee is not required to meet any other
 15 requirement for admission to the second injury fund.

16 ~~(f)~~ (g) If an accident arising out of and in the course of employment
 17 after June 30, 1997, results in the loss of or damage to an artificial
 18 member, a brace, an implant, eyeglasses, prosthodontics, or other
 19 medically prescribed device, the employer shall repair the artificial
 20 member, brace, implant, eyeglasses, prosthodontics, or other medically
 21 prescribed device or furnish an identical or a reasonably equivalent
 22 replacement.

23 ~~(g)~~ (h) This section may not be construed to prohibit an agreement
 24 between an employer and the employer's employees that has the
 25 approval of the board and that binds the parties to:

- 26 (1) medical care furnished by health care providers selected by
- 27 agreement before or after injury; or
- 28 (2) the findings of a health care provider who was chosen by
- 29 agreement.

30 SECTION 11. IC 22-3-3-6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After an injury
 32 and during the period of claimed resulting disability or impairment, the
 33 employee, if so requested by the employee's employer or ordered by the
 34 industrial board, shall submit to an examination at reasonable times
 35 and places by a duly qualified physician or surgeon designated and paid
 36 by the employer or by order of the worker's compensation board. The
 37 employee shall have the right to have present at any such examination
 38 any duly qualified physician or surgeon provided and paid for by the

1 employee. No fact communicated to, or otherwise learned by, any
2 physician or surgeon who may have attended or examined the
3 employee, or who may have been present at any examination, shall be
4 privileged, either in the hearings provided for in IC 22-3-2 through
5 IC 22-3-6, or in any action at law brought to recover damages against
6 any employer who is subject to the compensation provisions of
7 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
8 any way obstructs such examinations, the employee's right to
9 compensation and his right to take or prosecute any proceedings under
10 IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or
11 obstruction ceases. No compensation shall at any time be payable for
12 the period of suspension unless in the opinion of the worker's
13 compensation board the circumstances justified the refusal or
14 obstruction. The employee must be served with a notice setting forth
15 the consequences of the refusal under this subsection. The notice must
16 be in a form prescribed by the board.

17 (b) Any employer requesting an examination of any employee
18 residing within Indiana shall pay, in advance of the time fixed for the
19 examination, sufficient money to defray the necessary expenses of
20 travel by the most convenient means to and from the place of
21 examination, and the cost of meals and lodging necessary during the
22 travel. If the method of travel is by automobile, the mileage rate to be
23 paid by the employer shall be the rate currently being paid by the state
24 to its employees under the state travel policies and procedures
25 established by the department of administration and approved by the
26 budget agency. If such examination or travel to or from the place of
27 examination causes any loss of working time on the part of the
28 employee, the employer shall reimburse the employee for such loss of
29 wages upon the basis of the employee's average daily wage. When any
30 employee injured in Indiana moves outside Indiana, the travel expense
31 and the cost of meals and lodging necessary during the travel payable
32 under this section shall be paid from the point in Indiana nearest to the
33 employee's then residence to the place of examination. No travel and
34 other expense shall be paid for any travel and other expense required
35 outside Indiana.

36 (c) A duly qualified physician or surgeon provided and paid for by
37 the employee may be present at an examination if the employee so
38 desires. In all cases where the examination is made by a physician or

1 surgeon engaged by the employer and the injured employee has no
 2 physician or surgeon present at such examination, it shall be the duty
 3 of the physician or surgeon making the examination to deliver to the
 4 injured employee, or the employee's representative, a statement in
 5 writing of the conditions evidenced by such examination. The
 6 statement shall disclose all facts that are reported by such physician or
 7 surgeon to the employer. Such statement shall be furnished to the
 8 employee or the employee's representative, as soon as practicable, but
 9 not later than thirty (30) days before the time the case is set for hearing.
 10 The statement may be submitted by either party as evidence by that
 11 physician or surgeon at a hearing before the worker's compensation
 12 board if the statement meets the requirements of subsection ~~(e)~~ (f). If
 13 such physician or surgeon fails or refuses to furnish the employee or
 14 the employee's representative with such statement thirty (30) days
 15 before the hearing, then the statement may not be submitted as
 16 evidence, and such physician or surgeon shall not be permitted to
 17 testify before the worker's compensation board as to any facts learned
 18 in such examination. All of the requirements of this subsection apply
 19 to all subsequent examinations requested by the employer.

20 **(d) No representative of the employer or insurance carrier,**
 21 **including case managers or rehabilitation nurses, may be present**
 22 **at any examination of an injured employee without the express**
 23 **written consent of the employee and the treating medical**
 24 **personnel. At the time of any medical examination that a**
 25 **representative of the employer wishes to attend, the representative**
 26 **of the employer shall inform the injured employee and treating**
 27 **medical personnel that their written consent is required before the**
 28 **attendance of the employer's representative. The employee's**
 29 **compensation and benefits may not be jeopardized in any way due**
 30 **to the employer's failure or refusal to complete a written waiver**
 31 **allowing the attendance of the employer's representative. The**
 32 **employer's representative may not in any way cause the employee**
 33 **to believe that the employee's compensation and benefits will be**
 34 **terminated if the employee fails or refuses to complete a written**
 35 **waiver allowing the attendance of the employer's representative.**
 36 **The written waivers shall be executed on forms prescribed by the**
 37 **board.**

38 ~~(d)~~ (e) In all cases where an examination of an employee is made by

a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection ~~(e)~~ (f). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the industrial board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

~~(e)~~ (f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

- (1) The history of the injury, or claimed injury, as given by the patient.
- (2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.
- (3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.
- (4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.
- (5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation

1 board shall admit into evidence a statement that meets the requirements
 2 of this subsection unless the statement is ruled inadmissible on other
 3 grounds.

4 ~~(f)~~ (g) Delivery of any statement required by this section may be
 5 made to the attorney or agent of the employer or employee and such
 6 action shall be construed as delivery to the employer or employee.

7 ~~(g)~~ (h) Any party may object to a statement on the basis that the
 8 statement does not meet the requirements of subsection ~~(e)~~ (f). The
 9 objecting party must give written notice to the party providing the
 10 statement and specify the basis for the objection. Notice of the
 11 objection must be given no later than twenty (20) days before the
 12 hearing. Failure to object as provided in this subsection precludes any
 13 further objection as to the adequacy of the statement under subsection
 14 ~~(e)~~ (f).

15 ~~(h)~~ (i) The employer upon proper application, or the worker's
 16 compensation board, shall have the right in any case of death to require
 17 an autopsy at the expense of the party requesting the same. If, after a
 18 hearing, the worker's compensation board orders an autopsy and such
 19 autopsy is refused by the surviving spouse or next of kin, then any
 20 claim for compensation on account of such death shall be suspended
 21 and abated during such refusal. The surviving spouse or dependent
 22 must be served with a notice setting forth the consequences of the
 23 refusal under this subsection. The notice must be in a form prescribed
 24 by the worker's compensation board. No autopsy, except one performed
 25 by or on the authority or order of the coroner in the discharge of the
 26 coroner's duties, shall be held in any case by any person, without notice
 27 first being given to the surviving spouse or next of kin, if they reside in
 28 Indiana or their whereabouts can reasonably be ascertained, of the time
 29 and place thereof, and reasonable time and opportunity given such
 30 surviving spouse or next of kin to have a representative or
 31 representatives present to witness same. However, if such notice is not
 32 given, all evidence obtained by such autopsy shall be suppressed on
 33 motion duly made to the worker's compensation board.

34 SECTION 12. IC 22-3-3-10 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) With respect to
 36 injuries in the following schedule occurring prior to April 1, 1951, the
 37 employee shall receive in addition to temporary total disability benefits
 38 not exceeding twenty-six (26) weeks on account of the injuries, a

1 weekly compensation of fifty-five percent (55%) of the employee's
2 average weekly wages. With respect to injuries in the following
3 schedule occurring on and after April 1, 1951, and prior to July 1,
4 1971, the employee shall receive in addition to temporary total
5 disability benefits not exceeding twenty-six (26) weeks on account of
6 the injuries, a weekly compensation of sixty percent (60%) of the
7 employee's average weekly wages. With respect to injuries in the
8 following schedule occurring on and after July 1, 1971, and before July
9 1, 1977, the employee shall receive in addition to temporary total
10 disability benefits not exceeding twenty-six (26) weeks on account of
11 the injuries, a weekly compensation of sixty percent (60%) of the
12 employee's average weekly wages not to exceed one hundred dollars
13 (\$100) average weekly wages, for the periods stated for the injuries.
14 With respect to injuries in the following schedule occurring on and
15 after July 1, 1977, and before July 1, 1979, the employee shall receive,
16 in addition to temporary total disability benefits not exceeding
17 twenty-six (26) weeks on account of the injury, a weekly compensation
18 of sixty percent (60%) of his average weekly wages, not to exceed one
19 hundred twenty-five dollars (\$125) average weekly wages, for the
20 period stated for the injury. With respect to injuries in the following
21 schedule occurring on and after July 1, 1979, and before July 1, 1988,
22 the employee shall receive, in addition to temporary total disability
23 benefits not to exceed fifty-two (52) weeks on account of the injury, a
24 weekly compensation of sixty percent (60%) of the employee's average
25 weekly wages, not to exceed one hundred twenty-five dollars (\$125)
26 average weekly wages, for the period stated for the injury. With respect
27 to injuries in the following schedule occurring on and after July 1,
28 1988, and before July 1, 1989, the employee shall receive, in addition
29 to temporary total disability benefits not exceeding seventy-eight (78)
30 weeks on account of the injury, a weekly compensation of sixty percent
31 (60%) of the employee's average weekly wages, not to exceed one
32 hundred sixty-six dollars (\$166) average weekly wages, for the period
33 stated for the injury.

34 With respect to injuries in the following schedule occurring on and
35 after July 1, 1989, and before July 1, 1990, the employee shall receive,
36 in addition to temporary total disability benefits not exceeding
37 seventy-eight (78) weeks on account of the injury, a weekly
38 compensation of sixty percent (60%) of the employee's average weekly

wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

1 (2) For the loss by separation of both hands or both feet or the
2 total sight of both eyes, or any two (2) such losses in the same
3 accident, five hundred (500) weeks.

4 (3) For the permanent and complete loss of vision by enucleation
5 or its reduction to one-tenth (1/10) of normal vision with glasses,
6 one hundred seventy-five (175) weeks.

7 (4) For the permanent and complete loss of hearing in one (1) ear,
8 seventy-five (75) weeks, and in both ears, two hundred (200)
9 weeks.

10 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
11 both testicles, one hundred fifty (150) weeks.

12 (b) With respect to injuries in the following schedule occurring prior
13 to April 1, 1951, the employee shall receive in lieu of all other
14 compensation on account of the injuries, a weekly compensation of
15 fifty-five percent (55%) of the employee's average weekly wages. With
16 respect to injuries in the following schedule occurring on and after
17 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
18 lieu of all other compensation on account of the injuries a weekly
19 compensation of sixty percent (60%) of the employee's average weekly
20 wages. With respect to injuries in the following schedule occurring on
21 and after April 1, 1955, and prior to July 1, 1971, the employee shall
22 receive in addition to temporary total disability benefits not exceeding
23 twenty-six (26) weeks on account of the injuries, a weekly
24 compensation of sixty percent (60%) of the employee's average weekly
25 wages. With respect to injuries in the following schedule occurring on
26 and after July 1, 1971, and before July 1, 1977, the employee shall
27 receive in addition to temporary total disability benefits not exceeding
28 twenty-six (26) weeks on account of the injuries, a weekly
29 compensation of sixty percent (60%) of the employee's average weekly
30 wages, not to exceed one hundred dollars (\$100) average weekly
31 wages, for the period stated for such injuries respectively. With respect
32 to injuries in the following schedule occurring on and after July 1,
33 1977, and before July 1, 1979, the employee shall receive, in addition
34 to temporary total disability benefits not exceeding twenty-six (26)
35 weeks on account of the injury, a weekly compensation of sixty percent
36 (60%) of the employee's average weekly wages not to exceed one
37 hundred twenty-five dollars (\$125) average weekly wages, for the
38 period stated for the injury. With respect to injuries in the following

1 schedule occurring on and after July 1, 1979, and before July 1, 1988,
 2 the employee shall receive, in addition to temporary total disability
 3 benefits not exceeding fifty-two (52) weeks on account of the injury, a
 4 weekly compensation of sixty percent (60%) of the employee's average
 5 weekly wages not to exceed one hundred twenty-five dollars (\$125)
 6 average weekly wages for the period stated for the injury. With respect
 7 to injuries in the following schedule occurring on and after July 1,
 8 1988, and before July 1, 1989, the employee shall receive, in addition
 9 to temporary total disability benefits not exceeding seventy-eight (78)
 10 weeks on account of the injury, a weekly compensation of sixty percent
 11 (60%) of the employee's average weekly wages, not to exceed one
 12 hundred sixty-six dollars (\$166) average weekly wages, for the period
 13 stated for the injury.

14 With respect to injuries in the following schedule occurring on and
 15 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 16 in addition to temporary total disability benefits not exceeding
 17 seventy-eight (78) weeks on account of the injury, a weekly
 18 compensation of sixty percent (60%) of the employee's average weekly
 19 wages, not to exceed one hundred eighty-three dollars (\$183) average
 20 weekly wages, for the period stated for the injury.

21 With respect to injuries in the following schedule occurring on and
 22 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 23 in addition to temporary total disability benefits not exceeding
 24 seventy-eight (78) weeks on account of the injury, a weekly
 25 compensation of sixty percent (60%) of the employee's average weekly
 26 wages, not to exceed two hundred dollars (\$200) average weekly
 27 wages, for the period stated for the injury.

28 (1) Loss of use: The total permanent loss of the use of an arm,
 29 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 30 as the equivalent of the loss by separation of the arm, hand,
 31 thumb, finger, leg, foot, toe, or phalange, and compensation shall
 32 be paid for the same period as for the loss thereof by separation.

33 (2) Partial loss of use: For the permanent partial loss of the use of
 34 an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 35 compensation shall be paid for the proportionate loss of the use of
 36 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

37 (3) For injuries resulting in total permanent disability, five
 38 hundred (500) weeks.

1 (4) For any permanent reduction of the sight of an eye less than a
2 total loss as specified in subsection (a)(3), compensation shall be
3 paid for a period proportionate to the degree of such permanent
4 reduction without correction or glasses. However, when such
5 permanent reduction without correction or glasses would result in
6 one hundred percent (100%) loss of vision, but correction or
7 glasses would result in restoration of vision, then in such event
8 compensation shall be paid for fifty percent (50%) of such total
9 loss of vision without glasses, plus an additional amount equal to
10 the proportionate amount of such reduction with glasses, not to
11 exceed an additional fifty percent (50%).

12 (5) For any permanent reduction of the hearing of one (1) or both
13 ears, less than the total loss as specified in subsection (a)(4),
14 compensation shall be paid for a period proportional to the degree
15 of such permanent reduction.

16 (6) In all other cases of permanent partial impairment,
17 compensation proportionate to the degree of such permanent
18 partial impairment, in the discretion of the worker's compensation
19 board, not exceeding five hundred (500) weeks.

20 (7) In all cases of permanent disfigurement which may impair the
21 future usefulness or opportunities of the employee, compensation,
22 in the discretion of the worker's compensation board, not
23 exceeding two hundred (200) weeks, except that no compensation
24 shall be payable under this subdivision where compensation is
25 payable elsewhere in this section.

26 (c) With respect to injuries in the following schedule occurring on
27 and after July 1, 1991, the employee shall receive in addition to
28 temporary total disability benefits, not exceeding one hundred
29 twenty-five (125) weeks on account of the injury, compensation in an
30 amount determined under the following schedule to be paid weekly at
31 a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's
32 average weekly wages during the fifty-two (52) weeks immediately
33 preceding the week in which the injury occurred.

34 (1) Amputation: For the loss by separation of the thumb, twelve
35 (12) degrees of permanent impairment; of the index finger, eight
36 (8) degrees of permanent impairment; of the second finger, seven
37 (7) degrees of permanent impairment; of the third or ring finger,
38 six (6) degrees of permanent impairment; of the fourth or little

1 finger, four (4) degrees of permanent impairment; of the hand by
2 separation below the elbow joint, forty (40) degrees of permanent
3 impairment; of the arm above the elbow, fifty (50) degrees of
4 permanent impairment; of the big toe, twelve (12) degrees of
5 permanent impairment; of the second toe, six (6) degrees of
6 permanent impairment; of the third toe, four (4) degrees of
7 permanent impairment; of the fourth toe, three (3) degrees of
8 permanent impairment; of the fifth or little toe, two (2) degrees of
9 permanent impairment; by separation of the foot below the knee
10 joint, thirty-five (35) degrees of permanent impairment; and of the
11 leg above the knee joint, forty-five (45) degrees of permanent
12 impairment.

13 (2) Amputations occurring on or after July 1, 1997: For the loss
14 by separation of any of the body parts described in subdivision (1)
15 on or after July 1, 1997, the dollar values per degree applying on
16 the date of the injury as described in subsection (d) shall be
17 multiplied by two (2). However, the doubling provision of this
18 subdivision does not apply to a loss of use that is not a loss by
19 separation.

20 (3) The loss of more than one (1) phalange of a thumb or toe shall
21 be considered as the loss of the entire thumb or toe. The loss of
22 more than two (2) phalanges of a finger shall be considered as the
23 loss of the entire finger. The loss of not more than one (1)
24 phalange of a thumb or toe shall be considered as the loss of
25 one-half (1/2) of the degrees of permanent impairment for the loss
26 of the entire thumb or toe. The loss of not more than one (1)
27 phalange of a finger shall be considered as the loss of one-third
28 (1/3) of the finger and compensation shall be paid for one-third
29 (1/3) of the degrees payable for the loss of the entire finger. The
30 loss of more than one (1) phalange of the finger but not more than
31 two (2) phalanges of the finger shall be considered as the loss of
32 one-half (1/2) of the finger and compensation shall be paid for
33 one-half (1/2) of the degrees payable for the loss of the entire
34 finger.

35 (4) For the loss by separation of both hands or both feet or the
36 total sight of both eyes or any two (2) such losses in the same
37 accident, one hundred (100) degrees of permanent impairment.

38 (5) For the permanent and complete loss of vision by enucleation

- 1 or its reduction to one-tenth (1/10) of normal vision with glasses,
2 thirty-five (35) degrees of permanent impairment.
- 3 (6) For the permanent and complete loss of hearing in one (1) ear,
4 fifteen (15) degrees of permanent impairment, and in both ears,
5 forty (40) degrees of permanent impairment.
- 6 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
7 impairment; for the loss of both testicles, thirty (30) degrees of
8 permanent impairment.
- 9 (8) Loss of use: The total permanent loss of the use of an arm, a
10 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
11 considered as the equivalent of the loss by separation of the arm,
12 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
13 shall be paid in the same amount as for the loss by separation.
14 However, the doubling provision of subdivision (2) does not
15 apply to a loss of use that is not a loss by separation.
- 16 (9) Partial loss of use: For the permanent partial loss of the use of
17 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
18 phalange, compensation shall be paid for the proportionate loss of
19 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 20 (10) For injuries resulting in total permanent disability, the
21 amount payable for impairment or five hundred (500) weeks of
22 compensation, whichever is greater.
- 23 (11) For any permanent reduction of the sight of an eye less than
24 a total loss as specified in subsection (a)(3), the compensation
25 shall be paid in an amount proportionate to the degree of a
26 permanent reduction without correction or glasses. However,
27 when a permanent reduction without correction or glasses would
28 result in one hundred percent (100%) loss of vision, then
29 compensation shall be paid for fifty percent (50%) of the total loss
30 of vision without glasses, plus an additional amount equal to the
31 proportionate amount of the reduction with glasses, not to exceed
32 an additional fifty percent (50%).
- 33 (12) For any permanent reduction of the hearing of one (1) or both
34 ears, less than the total loss as specified in subsection (a)(4),
35 compensation shall be paid in an amount proportionate to the
36 degree of a permanent reduction.
- 37 (13) In all other cases of permanent partial impairment,
38 compensation proportionate to the degree of a permanent partial

1 impairment, in the discretion of the worker's compensation board,
2 not exceeding one hundred (100) degrees of permanent
3 impairment.

4 (14) In all cases of permanent disfigurement which may impair
5 the future usefulness or opportunities of the employee,
6 compensation, in the discretion of the worker's compensation
7 board, not exceeding forty (40) degrees of permanent impairment
8 except that no compensation shall be payable under this
9 subdivision where compensation is payable elsewhere in this
10 section.

11 (d) Compensation for permanent partial impairment shall be paid
12 according to the degree of permanent impairment for the injury
13 determined under subsection (c) and the following:

14 (1) With respect to injuries occurring on and after July 1, 1991,
15 and before July 1, 1992, for each degree of permanent impairment
16 from one (1) to thirty-five (35), five hundred dollars (\$500) per
17 degree; for each degree of permanent impairment from thirty-six
18 (36) to fifty (50), nine hundred dollars (\$900) per degree; for each
19 degree of permanent impairment above fifty (50), one thousand
20 five hundred dollars (\$1,500) per degree.

21 (2) With respect to injuries occurring on and after July 1, 1992,
22 and before July 1, 1993, for each degree of permanent impairment
23 from one (1) to twenty (20), five hundred dollars (\$500) per
24 degree; for each degree of permanent impairment from
25 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
26 per degree; for each degree of permanent impairment from
27 thirty-six (36) to fifty (50), one thousand three hundred dollars
28 (\$1,300) per degree; for each degree of permanent impairment
29 above fifty (50), one thousand seven hundred dollars (\$1,700) per
30 degree.

31 (3) With respect to injuries occurring on and after July 1, 1993,
32 and before July 1, 1997, for each degree of permanent impairment
33 from one (1) to ten (10), five hundred dollars (\$500) per degree;
34 for each degree of permanent impairment from eleven (11) to
35 twenty (20), seven hundred dollars (\$700) per degree; for each
36 degree of permanent impairment from twenty-one (21) to
37 thirty-five (35), one thousand dollars (\$1,000) per degree; for
38 each degree of permanent impairment from thirty-six (36) to fifty

1 (50), one thousand four hundred dollars (\$1,400) per degree; for
 2 each degree of permanent impairment above fifty (50), one
 3 thousand seven hundred dollars (\$1,700) per degree.

4 (4) With respect to injuries occurring on and after July 1, 1997,
 5 and before July 1, 1998, for each degree of permanent impairment
 6 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 7 degree; for each degree of permanent impairment from eleven
 8 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 9 for each degree of permanent impairment from thirty-six (36) to
 10 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 11 for each degree of permanent impairment above fifty (50), one
 12 thousand seven hundred dollars (\$1,700) per degree.

13 (5) With respect to injuries occurring on and after July 1, 1998,
 14 and before July 1, 1999, for each degree of permanent impairment
 15 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 16 degree; for each degree of permanent impairment from eleven
 17 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 18 for each degree of permanent impairment from thirty-six (36) to
 19 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 20 for each degree of permanent impairment above fifty (50), one
 21 thousand seven hundred dollars (\$1,700) per degree.

22 (6) With respect to injuries occurring on and after July 1, 1999,
 23 **and before July 1, 2000**, for each degree of permanent
 24 impairment from one (1) to ten (10), nine hundred dollars (\$900)
 25 per degree; for each degree of permanent impairment from eleven
 26 (11) to thirty-five (35), one thousand one hundred dollars
 27 (\$1,100) per degree; for each degree of permanent impairment
 28 from thirty-six (36) to fifty (50), one thousand six hundred dollars
 29 (\$1,600) per degree; for each degree of permanent impairment
 30 above fifty (50), two thousand dollars (\$2,000) per degree.

31 **(7) With respect to injuries occurring on and after July 1,**
 32 **2000, and before July 1, 2001, for each degree of permanent**
 33 **impairment from one (1) to ten (10), nine hundred fifty**
 34 **dollars (\$950) per degree; for each degree of permanent**
 35 **impairment from eleven (11) to thirty-five (35), one thousand**
 36 **four hundred fifty dollars (\$1,450) per degree; for each degree**
 37 **of permanent impairment from thirty-six (36) to fifty (50), one**
 38 **thousand eight hundred dollars (\$1,800) per degree; for each**

1 degree of permanent impairment above fifty (50), two
2 thousand six hundred dollars (\$2,600) per degree.

3 (8) With respect to injuries occurring on and after July 1,
4 2001, and before July 1, 2002, for each degree of permanent
5 impairment from one (1) to ten (10), one thousand dollars
6 (\$1,000) per degree; for each degree of permanent
7 impairment from eleven (11) to thirty-five (35), one thousand
8 eight hundred fifty dollars (\$1,850) per degree; for each
9 degree of permanent impairment from thirty-six (36) to fifty
10 (50), two thousand seven hundred dollars (\$2,700) per degree;
11 for each degree of permanent impairment above fifty (50),
12 three thousand four hundred dollars (\$3,400) per degree.

13 (9) With respect to injuries occurring on and after July 1,
14 2002, for each degree of permanent impairment from one (1)
15 to ten (10), one thousand fifty dollars (\$1,050) per degree; for
16 each degree of permanent impairment from eleven (11) to
17 thirty-five (35), two thousand four hundred dollars (\$2,400)
18 per degree; for each degree of permanent impairment from
19 thirty-six (36) to fifty (50), three thousand five hundred
20 dollars (\$3,500) per degree; for each degree of permanent
21 impairment above fifty (50), four thousand four hundred
22 dollars (\$4,400) per degree.

23 (e) The average weekly wages used in the determination of
24 compensation for permanent partial impairment under subsections (c)
25 and (d) shall not exceed the following:

26 (1) With respect to injuries occurring on or after July 1, 1991, and
27 before July 1, 1992, four hundred ninety-two dollars (\$492).

28 (2) With respect to injuries occurring on or after July 1, 1992, and
29 before July 1, 1993, five hundred forty dollars (\$540).

30 (3) With respect to injuries occurring on or after July 1, 1993, and
31 before July 1, 1994, five hundred ninety-one dollars (\$591).

32 (4) With respect to injuries occurring on or after July 1, 1994, and
33 before July 1, 1997, six hundred forty-two dollars (\$642).

34 (5) With respect to injuries occurring on or after July 1, 1997, and
35 before July 1, 1998, six hundred seventy-two dollars (\$672).

36 (6) With respect to injuries occurring on or after July 1, 1998, and
37 before July 1, 1999, seven hundred two dollars (\$702).

38 (7) With respect to injuries occurring on or after July 1, 1999, and

1 before July 1, 2000, seven hundred thirty-two dollars (\$732).

2 (8) With respect to injuries occurring on or after July 1, 2000, **and**
3 **before July 1, 2001**, seven hundred sixty-two dollars (\$762).

4 **(9) With respect to injuries occurring on or after July 1, 2001,**
5 **and before July 1, 2002, eight hundred seven dollars (\$807).**

6 **(10) With respect to injuries occurring on or after July 1,**
7 **2002, eight hundred forty dollars (\$840).**

8 SECTION 13. IC 22-3-3-13 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) If an employee
10 who from any cause, had lost, or lost the use of, one (1) hand, one (1)
11 arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent
12 industrial accident becomes permanently and totally impaired by
13 reason of the loss, or loss of use of, another such member or eye, the
14 employer shall be liable only for the compensation payable for such
15 second injury. However, in addition to such compensation and after the
16 completion of the payment therefor, the employee shall be paid the
17 remainder of the compensation that would be due for such total
18 permanent impairment out of a special fund known as the second injury
19 fund, and created in the manner described in subsection (b).

20 (b) **Whenever in the discretion of the chairman of the workers**
21 **compensation board it is necessary to perform an assessment in**
22 **order to ensure that fund beneficiaries, including applicants under**
23 **IC 22-3-3-4(e), continue to receive compensation in a timely**
24 **manner for a reasonable prospective period, the board shall send**
25 **notice to all insurance carriers insuring employers who are or may**
26 **be liable under this article to pay compensation for personal**
27 **injuries to or death of their employees under this article and to all**
28 **employers carrying the employer's own risk stating that an**
29 **assessment is necessary.** Every insurance carrier insuring employers
30 who are or may be liable under this article to pay compensation for
31 personal injuries to or death of their employees under this article and
32 every employer carrying the employer's own risk, ~~shall, on or before~~
33 ~~April 10 of each year, within thirty (30) days of the board's mailing~~
34 **of notice that an assessment is necessary,** pay to the worker's
35 compensation board for the benefit of said fund, a sum ~~equal to one~~
36 **percent (1%) not to exceed three percent (3%)** of the total amount of
37 all worker's compensation paid to injured employees or their
38 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year

next preceding the due date of such payment. **Compensation to be considered for purposes of calculating the assessment shall include payments for temporary total disability, temporary partial disability, permanent total disability, and permanent partial impairment, but shall exclude payments for medical payments.** If the amount to the credit of the second injury fund as of April 1 of any year exceeds five hundred thousand dollars (\$500,000), the payments of one percent (1%) shall not be assessed or collected during the ensuing year. But when on April 1 of any year the amount to the credit of the fund is less than five hundred thousand dollars (\$500,000), the payments of one percent (1%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into such fund:

(c) The sums shall be paid by the worker's compensation board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(d) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the worker's compensation board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (e).

(e) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury,

not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed ~~one hundred fifty (150) weeks~~ **one hundred fifty-six (156) weeks** upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(f) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed ~~one hundred fifty (150) weeks~~ **one hundred fifty-six (156) weeks** each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the worker's compensation board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

SECTION 14. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries

1 occurring on and after July 1, 1971, and prior to July 1, 1974, the
2 average weekly wages shall be considered to be: (A) Not more than: (1)
3 one hundred dollars (\$100) if no dependents; (2) one hundred five
4 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
5 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
6 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
7 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
8 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
9 computing compensation for temporary total disability, temporary
10 partial disability, and total permanent disability under this law with
11 respect to injuries occurring on and after July 1, 1974, and before July
12 1, 1976, the average weekly wages shall be considered to be (A) not
13 more than one hundred thirty-five dollars (\$135), and (B) not less than
14 seventy-five dollars (\$75). However, the weekly compensation payable
15 shall in no case exceed the average weekly wages of the employee at
16 the time of the injury. In computing compensation for temporary total
17 disability, temporary partial disability and total permanent disability
18 under this law with respect to injuries occurring on and after July 1,
19 1976, and before July 1, 1977, the average weekly wages shall be
20 considered to be (1) not more than one hundred fifty-six dollars (\$156)
21 and (2) not less than seventy-five dollars (\$75). However, the weekly
22 compensation payable shall not exceed the average weekly wages of
23 the employee at the time of the injury. In computing compensation for
24 temporary total disability, temporary partial disability, and total
25 permanent disability, with respect to injuries occurring on and after
26 July 1, 1977, and before July 1, 1979, the average weekly wages are
27 considered to be (1) not more than one hundred eighty dollars (\$180);
28 and (2) not less than seventy-five dollars (\$75). However, the weekly
29 compensation payable may not exceed the average weekly wages of the
30 employee at the time of the injury. In computing compensation for
31 temporary total disability, temporary partial disability, and total
32 permanent disability, with respect to injuries occurring on and after
33 July 1, 1979, and before July 1, 1980, the average weekly wages are
34 considered to be (1) not more than one hundred ninety-five dollars
35 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
36 weekly compensation payable shall not exceed the average weekly
37 wages of the employee at the time of the injury. In computing
38 compensation for temporary total disability, temporary partial

1 disability, and total permanent disability, with respect to injuries
2 occurring on and after July 1, 1980, and before July 1, 1983, the
3 average weekly wages are considered to be (1) not more than two
4 hundred ten dollars (\$210), and (2) not less than seventy-five dollars
5 (\$75). However, the weekly compensation payable shall not exceed the
6 average weekly wages of the employee at the time of the injury. In
7 computing compensation for temporary total disability, temporary
8 partial disability, and total permanent disability, with respect to injuries
9 occurring on and after July 1, 1983, and before July 1, 1984, the
10 average weekly wages are considered to be (1) not more than two
11 hundred thirty-four dollars (\$234) and (2) not less than seventy-five
12 dollars (\$75). However, the weekly compensation payable shall not
13 exceed the average weekly wages of the employee at the time of the
14 injury. In computing compensation for temporary total disability,
15 temporary partial disability, and total permanent disability, with respect
16 to injuries occurring on and after July 1, 1984, and before July 1, 1985,
17 the average weekly wages are considered to be (1) not more than two
18 hundred forty-nine dollars (\$249) and (2) not less than seventy-five
19 dollars (\$75). However, the weekly compensation payable shall not
20 exceed the average weekly wages of the employee at the time of the
21 injury. In computing compensation for temporary total disability,
22 temporary partial disability, and total permanent disability, with respect
23 to injuries occurring on and after July 1, 1985, and before July 1, 1986,
24 the average weekly wages are considered to be (1) not more than two
25 hundred sixty-seven dollars (\$267) and (2) not less than seventy-five
26 dollars (\$75). However, the weekly compensation payable shall not
27 exceed the average weekly wages of the employee at the time of the
28 injury. In computing compensation for temporary total disability,
29 temporary partial disability, and total permanent disability, with respect
30 to injuries occurring on and after July 1, 1986, and before July 1, 1988,
31 the average weekly wages are considered to be (1) not more than two
32 hundred eighty-five dollars (\$285) and (2) not less than seventy-five
33 dollars (\$75). However, the weekly compensation payable shall not
34 exceed the average weekly wages of the employee at the time of the
35 injury. In computing compensation for temporary total disability,
36 temporary partial disability, and total permanent disability, with respect
37 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
38 the average weekly wages are considered to be (1) not more than three

1 hundred eighty-four dollars (\$384) and (2) not less than seventy-five
2 dollars (\$75). However, the weekly compensation payable shall not
3 exceed the average weekly wages of the employee at the time of the
4 injury.

5 In computing compensation for temporary total disability, temporary
6 partial disability, and total permanent disability, with respect to injuries
7 occurring on and after July 1, 1989, and before July 1, 1990, the
8 average weekly wages are considered to be (1) not more than four
9 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
10 (\$75). However, the weekly compensation payable shall not exceed the
11 average weekly wages of the employee at the time of the injury.

12 In computing compensation for temporary total disability, temporary
13 partial disability, and total permanent disability, with respect to injuries
14 occurring on and after July 1, 1990, and before July 1, 1991, the
15 average weekly wages are considered to be (1) not more than four
16 hundred forty-one dollars (\$441) and (2) not less than seventy-five
17 dollars (\$75). However, the weekly compensation payable shall not
18 exceed the average weekly wages of the employee at the time of the
19 injury.

20 In computing compensation for temporary total disability, temporary
21 partial disability, and total permanent disability, with respect to injuries
22 occurring on and after July 1, 1991, and before July 1, 1992, the
23 average weekly wages are considered to be (1) not more than four
24 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
25 dollars (\$75). However, the weekly compensation payable shall not
26 exceed the average weekly wages of the employee at the time of the
27 injury.

28 In computing compensation for temporary total disability, temporary
29 partial disability, and total permanent disability, with respect to injuries
30 occurring on and after July 1, 1992, and before July 1, 1993, the
31 average weekly wages are considered to be (1) not more than five
32 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
33 (\$75). However, the weekly compensation payable shall not exceed the
34 average weekly wages of the employee at the time of the injury.

35 In computing compensation for temporary total disability, temporary
36 partial disability, and total permanent disability, with respect to injuries
37 occurring on and after July 1, 1993, and before July 1, 1994, the
38 average weekly wages are considered to be (1) not more than five

hundred ninety-one dollars (\$591) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars (\$642) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732);

and

(B) not less than seventy-five dollars (\$75); ~~and~~

(4) with respect to injuries occurring on and after July 1, 2000, **and before July 1, 2001:**

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred seven dollars (\$807); and

(B) not less than seventy-five dollars (\$75); and

(6) with respect to injuries occurring on and after July 1, 2002:

1 **(A) not more than eight hundred forty dollars (\$840); and**

2 **(B) not less than seventy-five dollars (\$75).**

3 However, the weekly compensation payable shall not exceed the
4 average weekly wages of the employee at the time of the injury.

5 (c) For the purpose of this section only and with respect to injuries
6 occurring on and after July 1, 1971, and prior to July 1, 1974, only, the
7 term "dependent" as used in this section shall mean persons defined as
8 presumptive dependents under section 19 of this chapter, except that
9 such dependency shall be determined as of the date of the injury to the
10 employee.

11 (d) With respect to any injury occurring on and after April 1, 1955,
12 and prior to April 1, 1957, the maximum compensation exclusive of
13 medical benefits, which shall be paid for an injury under any provisions
14 of this law or under any combination of its provisions shall not exceed
15 twelve thousand five hundred dollars (\$12,500) in any case. With
16 respect to any injury occurring on and after April 1, 1957 and prior to
17 April 1, 1963, the maximum compensation exclusive of medical
18 benefits, which shall be paid for an injury under any provision of this
19 law or under any combination of its provisions shall not exceed fifteen
20 thousand dollars (\$15,000) in any case. With respect to any injury
21 occurring on and after April 1, 1963, and prior to April 1, 1965, the
22 maximum compensation exclusive of medical benefits, which shall be
23 paid for an injury under any provision of this law or under any
24 combination of its provisions shall not exceed sixteen thousand five
25 hundred dollars (\$16,500) in any case. With respect to any injury
26 occurring on and after April 1, 1965, and prior to April 1, 1967, the
27 maximum compensation exclusive of medical benefits which shall be
28 paid for any injury under any provision of this law or any combination
29 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
30 case. With respect to any injury occurring on and after April 1, 1967,
31 and prior to July 1, 1971, the maximum compensation exclusive of
32 medical benefits which shall be paid for an injury under any provision
33 of this law or any combination of provisions shall not exceed
34 twenty-five thousand dollars (\$25,000) in any case. With respect to any
35 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
36 maximum compensation exclusive of medical benefits which shall be
37 paid for any injury under any provision of this law or any combination
38 of provisions shall not exceed thirty thousand dollars (\$30,000) in any

1 case. With respect to any injury occurring on and after July 1, 1974,
2 and before July 1, 1976, the maximum compensation exclusive of
3 medical benefits which shall be paid for an injury under any provision
4 of this law or any combination of provisions shall not exceed forty-five
5 thousand dollars (\$45,000) in any case. With respect to an injury
6 occurring on and after July 1, 1976, and before July 1, 1977, the
7 maximum compensation, exclusive of medical benefits, which shall be
8 paid for any injury under any provision of this law or any combination
9 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
10 any case. With respect to any injury occurring on and after July 1,
11 1977, and before July 1, 1979, the maximum compensation, exclusive
12 of medical benefits, which may be paid for an injury under any
13 provision of this law or any combination of provisions may not exceed
14 sixty thousand dollars (\$60,000) in any case. With respect to any injury
15 occurring on and after July 1, 1979, and before July 1, 1980, the
16 maximum compensation, exclusive of medical benefits, which may be
17 paid for an injury under any provisions of this law or any combination
18 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
19 any case. With respect to any injury occurring on and after July 1,
20 1980, and before July 1, 1983, the maximum compensation, exclusive
21 of medical benefits, which may be paid for an injury under any
22 provisions of this law or any combination of provisions may not exceed
23 seventy thousand dollars (\$70,000) in any case. With respect to any
24 injury occurring on and after July 1, 1983, and before July 1, 1984, the
25 maximum compensation, exclusive of medical benefits, which may be
26 paid for an injury under any provisions of this law or any combination
27 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
28 in any case. With respect to any injury occurring on and after July 1,
29 1984, and before July 1, 1985, the maximum compensation, exclusive
30 of medical benefits, which may be paid for an injury under any
31 provisions of this law or any combination of provisions may not exceed
32 eighty-three thousand dollars (\$83,000) in any case. With respect to
33 any injury occurring on and after July 1, 1985, and before July 1, 1986,
34 the maximum compensation, exclusive of medical benefits, which may
35 be paid for an injury under any provisions of this law or any
36 combination of provisions may not exceed eighty-nine thousand dollars
37 (\$89,000) in any case. With respect to any injury occurring on and after
38 July 1, 1986, and before July 1, 1988, the maximum compensation,

1 exclusive of medical benefits, which may be paid for an injury under
2 any provisions of this law or any combination of provisions may not
3 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
4 to any injury occurring on and after July 1, 1988, and before July 1,
5 1989, the maximum compensation, exclusive of medical benefits,
6 which may be paid for an injury under any provisions of this law or any
7 combination of provisions may not exceed one hundred twenty-eight
8 thousand dollars (\$128,000) in any case.

9 With respect to any injury occurring on and after July 1, 1989, and
10 before July 1, 1990, the maximum compensation, exclusive of medical
11 benefits, which may be paid for an injury under any provisions of this
12 law or any combination of provisions may not exceed one hundred
13 thirty-seven thousand dollars (\$137,000) in any case.

14 With respect to any injury occurring on and after July 1, 1990, and
15 before July 1, 1991, the maximum compensation, exclusive of medical
16 benefits, which may be paid for an injury under any provisions of this
17 law or any combination of provisions may not exceed one hundred
18 forty-seven thousand dollars (\$147,000) in any case.

19 With respect to any injury occurring on and after July 1, 1991, and
20 before July 1, 1992, the maximum compensation, exclusive of medical
21 benefits, that may be paid for an injury under any provisions of this law
22 or any combination of provisions may not exceed one hundred
23 sixty-four thousand dollars (\$164,000) in any case.

24 With respect to any injury occurring on and after July 1, 1992, and
25 before July 1, 1993, the maximum compensation, exclusive of medical
26 benefits, that may be paid for an injury under any provisions of this law
27 or any combination of provisions may not exceed one hundred eighty
28 thousand dollars (\$180,000) in any case.

29 With respect to any injury occurring on and after July 1, 1993, and
30 before July 1, 1994, the maximum compensation, exclusive of medical
31 benefits, that may be paid for an injury under any provisions of this law
32 or any combination of provisions may not exceed one hundred
33 ninety-seven thousand dollars (\$197,000) in any case.

34 With respect to any injury occurring on and after July 1, 1994, and
35 before July 1, 1997, the maximum compensation, exclusive of medical
36 benefits, which may be paid for an injury under any provisions of this
37 law or any combination of provisions may not exceed two hundred
38 fourteen thousand dollars (\$214,000) in any case.

(e) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to an injury occurring on and after July 1, 2000, **and before July 1, 2001**, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred sixty-nine thousand dollars (\$269,000).

(6) With respect to an injury occurring on and after July 1, 2002, two hundred eighty thousand dollars (\$280,000).

SECTION 15. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation

board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of

1 disagreement to the board and the employer within seven (7) days after
2 receipt of the notice of intent to terminate benefits. If the board and
3 employer do not receive a notice of disagreement under this section,
4 the employee's temporary total disability benefits shall be terminated.
5 Upon receipt of the notice of disagreement, the board shall immediately
6 contact the parties, which may be by telephone or other means and
7 attempt to resolve the disagreement. If the board is unable to resolve
8 the disagreement within ten (10) days of receipt of the notice of
9 disagreement, the board shall immediately arrange for an evaluation of
10 the employee by an independent medical examiner. The independent
11 medical examiner shall be selected by mutual agreement of the parties
12 or, if the parties are unable to agree, appointed by the board under
13 IC 22-3-4-11. If the independent medical examiner determines that the
14 employee is no longer temporarily disabled or is still temporarily
15 disabled but can return to employment that the employer has made
16 available to the employee, or if the employee fails or refuses to appear
17 for examination by the independent medical examiner, temporary total
18 disability benefits may be terminated. If either party disagrees with the
19 opinion of the independent medical examiner, the party shall apply to
20 the board for a hearing under section 27 of this chapter.

21 (c) An employer is not required to continue the payment of
22 temporary total disability benefits for more than fourteen (14) days
23 after the employer's proposed termination date unless the independent
24 medical examiner determines that the employee is temporarily disabled
25 and unable to return to any employment that the employer has made
26 available to the employee.

27 (d) If it is determined that as a result of this section temporary total
28 disability benefits were overpaid, the overpayment shall be deducted
29 from any benefits due the employee under this section and, if there are
30 no benefits due the employee or the benefits due the employee do not
31 equal the amount of the overpayment, the employee shall be
32 responsible for paying any overpayment which cannot be deducted
33 from benefits due the employee.

34 (e) For disablements occurring on and after April 1, 1951, and prior
35 to July 1, 1971, from occupational disease resulting in temporary total
36 disability for any work, there shall be paid to the disabled employee
37 during such temporary total disability a weekly compensation equal to
38 sixty percent (60%) of the employee's average weekly wages for a

1 period not to exceed five hundred (500) weeks. Compensation shall be
2 allowed for the first seven (7) calendar days only if the disability
3 continues for longer than twenty-eight (28) days.

4 For disablements occurring on and after July 1, 1971, and prior to
5 July 1, 1974, from occupational disease resulting in temporary total
6 disability for any work, there shall be paid to the disabled employee
7 during such temporary total disability a weekly compensation equal to
8 sixty percent (60%) of the employee's average weekly wages, as
9 defined in section 19 of this chapter, for a period not to exceed five
10 hundred (500) weeks. Compensation shall be allowed for the first seven
11 (7) calendar days only if the disability continues for longer than
12 twenty-eight (28) days.

13 For disablements occurring on and after July 1, 1974, and before
14 July 1, 1976, from occupational disease resulting in temporary total
15 disability for any work, there shall be paid to the disabled employee
16 during such temporary total disability a weekly compensation equal to
17 sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average
18 weekly wages, up to one hundred thirty-five dollars (\$135) average
19 weekly wages, as defined in section 19 of this chapter, for a period not
20 to exceed five hundred (500) weeks. Compensation shall be allowed for
21 the first seven (7) calendar days only if the disability continues for
22 longer than twenty-one (21) days.

23 For disablements occurring on and after July 1, 1976, from
24 occupational disease resulting in temporary total disability for any
25 work, there shall be paid to the disabled employee during the temporary
26 total disability weekly compensation equal to sixty-six and two-thirds
27 percent ($66\frac{2}{3}\%$) of the employee's average weekly wages, as defined
28 in section 19 of this chapter, for a period not to exceed five hundred
29 (500) weeks. Compensation shall be allowed for the first seven (7)
30 calendar days only if the disability continues for longer than twenty-one
31 (21) days.

32 (f) For disablements occurring on and after April 1, 1951, and prior
33 to July 1, 1971, from occupational disease resulting in temporary
34 partial disability for work, there shall be paid to the disabled employee
35 during such disability a weekly compensation equal to sixty percent
36 (60%) of the difference between the employee's average weekly wages
37 and the weekly wages at which the employee is actually employed after
38 the disablement, for a period not to exceed three hundred (300) weeks.

1 Compensation shall be allowed for the first seven (7) calendar days
2 only if the disability continues for longer than twenty-eight (28) days.
3 In case of partial disability after the period of temporary total disability,
4 the later period shall be included as part of the maximum period
5 allowed for partial disability.

6 For disablements occurring on and after July 1, 1971, and prior to
7 July 1, 1974, from occupational disease resulting in temporary partial
8 disability for work, there shall be paid to the disabled employee during
9 such disability a weekly compensation equal to sixty percent (60%) of
10 the difference between the employee's average weekly wages, as
11 defined in section 19 of this chapter, and the weekly wages at which the
12 employee is actually employed after the disablement, for a period not
13 to exceed three hundred (300) weeks. Compensation shall be allowed
14 for the first seven (7) calendar days only if the disability continues for
15 longer than twenty-eight (28) days. In case of partial disability after the
16 period of temporary total disability, the latter period shall be included
17 as a part of the maximum period allowed for partial disability.

18 For disablements occurring on and after July 1, 1974, from
19 occupational disease resulting in temporary partial disability for work,
20 there shall be paid to the disabled employee during such disability a
21 weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the difference between the employee's average weekly wages,
22 as defined in section 19 of this chapter, and the weekly wages at which
23 he is actually employed after the disablement, for a period not to
24 exceed three hundred (300) weeks. Compensation shall be allowed for
25 the first seven (7) calendar days only if the disability continues for
26 longer than twenty-one (21) days. In case of partial disability after the
27 period of temporary total disability, the latter period shall be included
28 as a part of the maximum period allowed for partial disability.

29 (g) For disabilities occurring on and after April 1, 1951, and prior
30 to April 1, 1955, from occupational disease in the following schedule,
31 the employee shall receive in lieu of all other compensation, on account
32 of such disabilities, a weekly compensation of sixty percent (60%) of
33 the employee's average weekly wage; for disabilities occurring on and
34 after April 1, 1955, and prior to July 1, 1971, from occupational disease
35 in the following schedule, the employee shall receive in addition to
36 disability benefits not exceeding twenty-six (26) weeks on account of
37 said occupational disease a weekly compensation of sixty percent
38

1 (60%) of the employee's average weekly wages.

2 For disabilities occurring on and after July 1, 1971, and before July
3 1, 1977, from occupational disease in the following schedule, the
4 employee shall receive in addition to disability benefits not exceeding
5 twenty-six (26) weeks on account of said occupational disease a weekly
6 compensation of sixty percent (60%) of his average weekly wages not
7 to exceed one hundred dollars (\$100) average weekly wages, for the
8 period stated for such disabilities respectively.

9 For disabilities occurring on and after July 1, 1977, and before July
10 1, 1979, from occupational disease in the following schedule, the
11 employee shall receive in addition to disability benefits not exceeding
12 twenty-six (26) weeks on account of the occupational disease a weekly
13 compensation of sixty percent (60%) of the employee's average weekly
14 wages, not to exceed one hundred twenty-five dollars (\$125) average
15 weekly wages, for the period stated for the disabilities.

16 For disabilities occurring on and after July 1, 1979, and before July
17 1, 1988, from occupational disease in the following schedule, the
18 employee shall receive in addition to disability benefits, not exceeding
19 fifty-two (52) weeks on account of the occupational disease, a weekly
20 compensation of sixty percent (60%) of the employee's average weekly
21 wages, not to exceed one hundred twenty-five dollars (\$125) average
22 weekly wages, for the period stated for the disabilities.

23 For disabilities occurring on and after July 1, 1988, and before July
24 1, 1989, from occupational disease in the following schedule, the
25 employee shall receive in addition to disability benefits, not exceeding
26 seventy-eight (78) weeks on account of the occupational disease, a
27 weekly compensation of sixty percent (60%) of the employee's average
28 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
29 average weekly wages, for the period stated for the disabilities.

30 For disabilities occurring on and after July 1, 1989, and before July
31 1, 1990, from occupational disease in the following schedule, the
32 employee shall receive in addition to disability benefits, not exceeding
33 seventy-eight (78) weeks on account of the occupational disease, a
34 weekly compensation of sixty percent (60%) of the employee's average
35 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
36 average weekly wages, for the period stated for the disabilities.

37 For disabilities occurring on and after July 1, 1990, and before July
38 1, 1991, from occupational disease in the following schedule, the

1 employee shall receive in addition to disability benefits, not exceeding
2 seventy-eight (78) weeks on account of the occupational disease, a
3 weekly compensation of sixty percent (60%) of the employee's average
4 weekly wages, not to exceed two hundred dollars (\$200) average
5 weekly wages, for the period stated for the disabilities.

6 (1) Amputations: For the loss by separation, of the thumb, sixty
7 (60) weeks; of the index finger, forty (40) weeks; of the second
8 finger, thirty-five (35) weeks; of the third or ring finger, thirty
9 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
10 hand by separation below the elbow, two hundred (200) weeks; of
11 the arm above the elbow joint, two hundred fifty (250) weeks; of
12 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
13 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
14 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
15 the knee joint, one hundred fifty (150) weeks; and of the leg
16 above the knee joint, two hundred (200) weeks. The loss of more
17 than one (1) phalange of a thumb or toe shall be considered as the
18 loss of the entire thumb or toe. The loss of more than two (2)
19 phalanges of a finger shall be considered as the loss of the entire
20 finger. The loss of not more than one (1) phalange of a thumb or
21 toe shall be considered as the loss of one-half (1/2) of the thumb
22 or toe and compensation shall be paid for one-half (1/2) of the
23 period for the loss of the entire thumb or toe. The loss of not more
24 than two (2) phalanges of a finger shall be considered as the loss
25 of one-half (1/2) the finger and compensation shall be paid for
26 one-half (1/2) of the period for the loss of the entire finger.

27 (2) Loss of Use: The total permanent loss of the use of an arm,
28 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
29 as the equivalent of the loss by separation of the arm, hand,
30 thumb, finger, leg, foot, toe, or phalange and the compensation
31 shall be paid for the same period as for the loss thereof by
32 separation.

33 (3) Partial Loss of Use: For the permanent partial loss of the use
34 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
35 compensation shall be paid for the proportionate loss of the use of
36 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

37 (4) For disablements for occupational disease resulting in total
38 permanent disability, five hundred (500) weeks.

1 (5) For the loss of both hands, or both feet, or the total sight of
2 both eyes, or any two (2) of such losses resulting from the same
3 disablement by occupational disease, five hundred (500) weeks.

4 (6) For the permanent and complete loss of vision by enucleation
5 of an eye or its reduction to one-tenth (1/10) of normal vision with
6 glasses, one hundred fifty (150) weeks, and for any other
7 permanent reduction of the sight of an eye, compensation shall be
8 paid for a period proportionate to the degree of such permanent
9 reduction without correction or glasses. However, when such
10 permanent reduction without correction or glasses would result in
11 one hundred percent (100%) loss of vision, but correction or
12 glasses would result in restoration of vision, then compensation
13 shall be paid for fifty percent (50%) of such total loss of vision
14 without glasses plus an additional amount equal to the
15 proportionate amount of such reduction with glasses, not to
16 exceed an additional fifty percent (50%).

17 (7) For the permanent and complete loss of hearing, two hundred
18 (200) weeks.

19 (8) In all other cases of permanent partial impairment,
20 compensation proportionate to the degree of such permanent
21 partial impairment, in the discretion of the worker's compensation
22 board, not exceeding five hundred (500) weeks.

23 (9) In all cases of permanent disfigurement, which may impair the
24 future usefulness or opportunities of the employee, compensation
25 in the discretion of the worker's compensation board, not
26 exceeding two hundred (200) weeks, except that no compensation
27 shall be payable under this paragraph where compensation shall
28 be payable under subdivisions (1) through (8). Where
29 compensation for temporary total disability has been paid, this
30 amount of compensation shall be deducted from any
31 compensation due for permanent disfigurement.

32 With respect to disablements in the following schedule occurring on
33 and after July 1, 1991, the employee shall receive in addition to
34 temporary total disability benefits, not exceeding one hundred
35 twenty-five (125) weeks on account of the disablement, compensation
36 in an amount determined under the following schedule to be paid
37 weekly at a rate of sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the
38 employee's average weekly wages during the fifty-two (52) weeks

- 1 immediately preceding the week in which the disablement occurred:
- 2 (1) Amputation: For the loss by separation of the thumb, twelve
- 3 (12) degrees of permanent impairment; of the index finger, eight
- 4 (8) degrees of permanent impairment; of the second finger, seven
- 5 (7) degrees of permanent impairment; of the third or ring finger,
- 6 six (6) degrees of permanent impairment; of the fourth or little
- 7 finger, four (4) degrees of permanent impairment; of the hand by
- 8 separation below the elbow joint, forty (40) degrees of permanent
- 9 impairment; of the arm above the elbow, fifty (50) degrees of
- 10 permanent impairment; of the big toe, twelve (12) degrees of
- 11 permanent impairment; of the second toe, six (6) degrees of
- 12 permanent impairment; of the third toe, four (4) degrees of
- 13 permanent impairment; of the fourth toe, three (3) degrees of
- 14 permanent impairment; of the fifth or little toe, two (2) degrees of
- 15 permanent impairment; of separation of the foot below the knee
- 16 joint, thirty-five (35) degrees of permanent impairment; and of the
- 17 leg above the knee joint, forty-five (45) degrees of permanent
- 18 impairment.
- 19 (2) Amputations occurring on or after July 1, 1997: For the loss
- 20 by separation of any of the body parts described in subdivision (1)
- 21 on or after July 1, 1997, the dollar values per degree applying on
- 22 the date of the injury as described in subsection (h) shall be
- 23 multiplied by two (2). However, the doubling provision of this
- 24 subdivision does not apply to a loss of use that is not a loss by
- 25 separation.
- 26 (3) The loss of more than one (1) phalange of a thumb or toe shall
- 27 be considered as the loss of the entire thumb or toe. The loss of
- 28 more than two (2) phalanges of a finger shall be considered as the
- 29 loss of the entire finger. The loss of not more than one (1)
- 30 phalange of a thumb or toe shall be considered as the loss of
- 31 one-half (1/2) of the degrees of permanent impairment for the loss
- 32 of the entire thumb or toe. The loss of not more than one (1)
- 33 phalange of a finger shall be considered as the loss of one-third
- 34 (1/3) of the finger and compensation shall be paid for one-third
- 35 (1/3) of the degrees payable for the loss of the entire finger. The
- 36 loss of more than one (1) phalange of the finger but not more than
- 37 two (2) phalanges of the finger shall be considered as the loss of
- 38 one-half (1/2) of the finger and compensation shall be paid for

- 1 one-half (1/2) of the degrees payable for the loss of the entire
2 finger.
- 3 (4) For the loss by separation of both hands or both feet or the
4 total sight of both eyes or any two (2) such losses in the same
5 accident, one hundred (100) degrees of permanent impairment.
- 6 (5) For the permanent and complete loss of vision by enucleation
7 or its reduction to one-tenth (1/10) of normal vision with glasses,
8 thirty-five (35) degrees of permanent impairment.
- 9 (6) For the permanent and complete loss of hearing in one (1) ear,
10 fifteen (15) degrees of permanent impairment, and in both ears,
11 forty (40) degrees of permanent impairment.
- 12 (7) For the loss of one (1) testicle, (10) ten degrees of permanent
13 impairment; for the loss of both testicles, thirty (30) degrees of
14 permanent impairment.
- 15 (8) Loss of use: The total permanent loss of the use of an arm, a
16 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
17 considered as the equivalent of the loss by separation of the arm,
18 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
19 shall be paid in the same amount as for the loss by separation.
20 However, the doubling provision of subdivision (2) does not
21 apply to a loss of use that is not a loss by separation.
- 22 (9) Partial loss of use: For the permanent partial loss of the use of
23 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
24 phalange, compensation shall be paid for the proportionate loss of
25 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 26 (10) For disablements resulting in total permanent disability, the
27 amount payable for impairment or five hundred (500) weeks of
28 compensation, whichever is greater.
- 29 (11) For any permanent reduction of the sight of an eye less than
30 a total loss as specified in subdivision (3), the compensation shall
31 be paid in an amount proportionate to the degree of a permanent
32 reduction without correction or glasses. However, when a
33 permanent reduction without correction or glasses would result in
34 one hundred percent (100%) loss of vision, then compensation
35 shall be paid for fifty percent (50%) of the total loss of vision
36 without glasses, plus an additional amount equal to the
37 proportionate amount of the reduction with glasses, not to exceed
38 an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1,

1 1993, and before July 1, 1997, for each degree of permanent
 2 impairment from one (1) to ten (10), five hundred dollars (\$500)
 3 per degree; for each degree of permanent impairment from eleven
 4 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
 5 each degree of permanent impairment from twenty-one (21) to
 6 thirty-five (35), one thousand dollars (\$1,000) per degree; for
 7 each degree of permanent impairment from thirty-six (36) to fifty
 8 (50), one thousand four hundred dollars (\$1,400) per degree; for
 9 each degree of permanent impairment above fifty (50), one
 10 thousand seven hundred dollars (\$1,700) per degree.

11 (4) With respect to disablements occurring on and after July 1,
 12 1997, and before July 1, 1998, for each degree of permanent
 13 impairment from one (1) to ten (10), seven hundred fifty dollars
 14 (\$750) per degree; for each degree of permanent impairment from
 15 eleven (11) thirty-five (35), one thousand dollars (\$1,000) per
 16 degree; for each degree of permanent impairment from thirty-six
 17 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 18 degree; for each degree of permanent impairment above fifty (50),
 19 one thousand seven hundred dollars (\$1,700) per degree.

20 (5) With respect to disablements occurring on and after July 1,
 21 1998, and before July 1, 1999, for each degree of permanent
 22 impairment from one (1) to ten (10), seven hundred fifty dollars
 23 (\$750) per degree; for each degree of permanent impairment from
 24 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 25 degree; for each degree of permanent impairment from thirty-six
 26 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 27 degree; for each degree of permanent impairment above fifty (50),
 28 one thousand seven hundred dollars (\$1,700) per degree.

29 (6) With respect to disablements occurring on and after July 1,
 30 1999, **and before July 1, 2000**, for each degree of permanent
 31 impairment from one (1) to ten (10), nine hundred dollars (\$900)
 32 per degree; for each degree of permanent impairment from eleven
 33 (11) to thirty-five (35), one thousand one hundred dollars
 34 (\$1,100) per degree; for each degree of permanent impairment
 35 from thirty-six (36) to fifty (50), one thousand six hundred dollars
 36 (\$1,600) per degree; for each degree of permanent impairment
 37 above fifty (50), two thousand dollars (\$2,000) per degree.

38 **(7) With respect to disablements occurring on and after July**

1 **1, 2000, and before July 1, 2001, for each degree of permanent**
 2 **impairment from one (1) to ten (10), nine hundred fifty**
 3 **dollars (\$950) per degree; for each degree of permanent**
 4 **impairment from eleven (11) to thirty-five (35), one thousand**
 5 **four hundred fifty dollars (\$1,450) per degree; for each degree**
 6 **of permanent impairment from thirty-six (36) to fifty (50),**
 7 **two thousand dollars (\$2,000) per degree; for each degree of**
 8 **permanent impairment above fifty (50), two thousand six**
 9 **hundred dollars (\$2,600) per degree.**

10 **(8) With respect to disablements occurring on and after July**
 11 **1, 2001, and before July 1, 2002, for each degree of permanent**
 12 **impairment from one (1) to ten (10), one thousand dollars**
 13 **(\$1,000) per degree; for each degree of permanent**
 14 **impairment from eleven (11) to thirty-five (35), one thousand**
 15 **eight hundred fifty dollars (\$1,850) per degree; for each**
 16 **degree of permanent impairment from thirty-six (36) to fifty**
 17 **(50), two thousand seven hundred dollars (\$2,700) per degree;**
 18 **for each degree of permanent impairment above fifty (50),**
 19 **three thousand four hundred dollars (\$3,400) per degree.**

20 **(9) With respect to disablements occurring on and after July**
 21 **1, 2002, for each degree of permanent impairment from one**
 22 **(1) to ten (10), one thousand fifty dollars (\$1,050) per degree;**
 23 **for each degree of permanent impairment from eleven (11) to**
 24 **thirty-five (35), two thousand four hundred dollars (\$2,400)**
 25 **per degree; for each degree of permanent impairment from**
 26 **thirty-six (36) to fifty (50), three thousand five hundred**
 27 **dollars (\$3,500) per degree; for each degree of permanent**
 28 **impairment above fifty (50), four thousand four hundred**
 29 **dollars (\$4,400) per degree.**

30 (i) The average weekly wages used in the determination of
 31 compensation for permanent partial impairment under subsections (g)
 32 and (h) shall not exceed the following:

33 (1) With respect to disablements occurring on or after July 1,
 34 1991, and before July 1, 1992, four hundred ninety-two dollars
 35 (\$492).

36 (2) With respect to disablements occurring on or after July 1,
 37 1992, and before July 1, 1993, five hundred forty dollars (\$540).

38 (3) With respect to disablements occurring on or after July 1,

1 1993, and before July 1, 1994, five hundred ninety-one dollars
2 (\$591).

3 (4) With respect to disablements occurring on or after July 1,
4 1994, and before July 1, 1997, six hundred forty-two dollars
5 (\$642).

6 (5) With respect to disablements occurring on or after July 1,
7 1997, and before July 1, 1998, six hundred seventy-two dollars
8 (\$672).

9 (6) With respect to disablements occurring on or after July 1,
10 1998, and before July 1, 1999, seven hundred two dollars (\$702).

11 (7) With respect to disablements occurring on or after July 1,
12 1999, and before July 1, 2000, seven hundred thirty-two dollars
13 (\$732).

14 (8) With respect to disablements occurring on or after July 1,
15 2000, **and before July 1, 2001**, seven hundred sixty-two dollars
16 (\$762).

17 **(9) With respect to disablements occurring on or after July 1,**
18 **2001, and before July 1, 2002, eight hundred seven dollars**
19 **(\$807).**

20 **(10) With respect to disablements occurring on or after July**
21 **1, 2002, eight hundred forty dollars (\$840).**

22 (j) If any employee, only partially disabled, refuses employment
23 suitable to his capacity procured for him, he shall not be entitled to any
24 compensation at any time during the continuance of such refusal
25 unless, in the opinion of the worker's compensation board, such refusal
26 was justifiable. The employee must be served with a notice setting forth
27 the consequences of the refusal under this subsection. The notice must
28 be in a form prescribed by the worker's compensation board.

29 (k) If an employee has sustained a permanent impairment or
30 disability from an accidental injury other than an occupational disease
31 in another employment than that in which he suffered a subsequent
32 disability from an occupational disease, such as herein specified, the
33 employee shall be entitled to compensation for the subsequent
34 disability in the same amount as if the previous impairment or
35 disability had not occurred. However, if the permanent impairment or
36 disability resulting from an occupational disease for which
37 compensation is claimed results only in the aggravation or increase of
38 a previously sustained permanent impairment from an occupational

1 disease or physical condition regardless of the source or cause of such
2 previously sustained impairment from an occupational disease or
3 physical condition, the board shall determine the extent of the
4 previously sustained permanent impairment from an occupational
5 disease or physical condition as well as the extent of the aggravation or
6 increase resulting from the subsequent permanent impairment or
7 disability, and shall award compensation only for that part of said
8 occupational disease or physical condition resulting from the
9 subsequent permanent impairment. An amputation of any part of the
10 body or loss of any or all of the vision of one (1) or both eyes caused by
11 an occupational disease shall be considered as a permanent impairment
12 or physical condition.

13 (l) If an employee suffers a disablement from occupational disease
14 for which compensation is payable while the employee is still receiving
15 or entitled to compensation for a previous injury by accident or
16 disability by occupational disease in the same employment, he shall not
17 at the same time be entitled to compensation for both, unless it be for
18 a permanent injury, such as specified in subsection (g)(1), (g)(2),
19 (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to
20 compensation for that disability and from the time of that disability
21 which will cover the longest period and the largest amount payable
22 under this chapter.

23 (m) If an employee receives a permanent disability from
24 occupational disease such as specified in subsection (g)(1), (g)(2),
25 (g)(3), (g)(6), or (g)(7), after having sustained another such permanent
26 disability in the same employment the employee shall be entitled to
27 compensation for both such disabilities, but the total compensation
28 shall be paid by extending the period and not by increasing the amount
29 of weekly compensation and, when such previous and subsequent
30 permanent disabilities, in combination result in total permanent
31 disability or permanent total impairment, compensation shall be
32 payable for such permanent total disability or impairment, but
33 payments made for the previous disability or impairment shall be
34 deducted from the total payment of compensation due.

35 (n) When an employee has been awarded or is entitled to an award
36 of compensation for a definite period under this chapter for disability
37 from occupational disease, which disablement occurs on and after April
38 1, 1951, and prior to April 1, 1963, and such employee dies from any

1 other cause than such occupational disease, payment of the unpaid
2 balance of such compensation, not exceeding three hundred (300)
3 weeks, shall be made to the employee's dependents of the second and
4 third class as defined in sections 11 through 14 of this chapter, and
5 compensation, not exceeding five hundred (500) weeks, shall be made
6 to the employee's dependents of the first class as defined in sections 11
7 through 14 of this chapter. When an employee has been awarded or is
8 entitled to an award of compensation for a definite period from an
9 occupational disease wherein disablement occurs on and after April 1,
10 1963, and such employee dies from other causes than such
11 occupational disease, payment of the unpaid balance of such
12 compensation not exceeding three hundred fifty (350) weeks shall be
13 paid to the employee's dependents of the second and third class as
14 defined in sections 11 through 14 of this chapter and compensation, not
15 exceeding five hundred (500) weeks shall be made to the employee's
16 dependents of the first class as defined in sections 11 through 14 of this
17 chapter.

18 (o) Any payment made by the employer to the employee during the
19 period of the employee's disability, or to the employee's dependents,
20 which, by the terms of this chapter, was not due and payable when
21 made, may, subject to the approval of the worker's compensation board,
22 be deducted from the amount to be paid as compensation, but such
23 deduction shall be made from the distal end of the period during which
24 compensation must be paid, except in cases of temporary disability.

25 (p) When so provided in the compensation agreement or in the
26 award of the worker's compensation board, compensation may be paid
27 semimonthly, or monthly, instead of weekly.

28 (q) When the aggregate payments of compensation awarded by
29 agreement or upon hearing to an employee or dependent under eighteen
30 (18) years of age do not exceed one hundred dollars (\$100), the
31 payment thereof may be made directly to such employee or dependent,
32 except when the worker's compensation board shall order otherwise.

33 Whenever the aggregate payments of compensation, due to any
34 person under eighteen (18) years of age, exceed one hundred dollars
35 (\$100), the payment thereof shall be made to a trustee, appointed by the
36 circuit or superior court, or to a duly qualified guardian, or, upon the
37 order of the worker's compensation board, to a parent or to such minor
38 person. The payment of compensation, due to any person eighteen (18)

1 years of age or over, may be made directly to such person.

2 (r) If an employee, or a dependent, is mentally incompetent, or a
3 minor at the time when any right or privilege accrues to the employee
4 under this chapter, the employee's guardian or trustee may, in the
5 employee's behalf, claim and exercise such right and privilege.

6 (s) All compensation payments named and provided for in this
7 section, shall mean and be defined to be for only such occupational
8 diseases and disabilities therefrom as are proved by competent
9 evidence, of which there are or have been objective conditions or
10 symptoms proven, not within the physical or mental control of the
11 employee himself.

12 SECTION 16. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JANUARY 1, 2001]: **Sec. 16.1. (a) Every insurance**
15 **carrier insuring employers who are or may be liable under this**
16 **article to pay compensation for disablement or death from**
17 **occupational diseases of their employees under this article and**
18 **every employer carrying the employer's own risk shall, within**
19 **thirty (30) days of the board's mailing of notice that an assessment**
20 **is necessary, pay to the worker's compensation board for the**
21 **benefit of a fund to be known as the occupational diseases second**
22 **injury fund. The payment shall not exceed three percent (3%) of**
23 **the total amount of all payments under this chapter for**
24 **occupational diseases paid to employees with occupational diseases**
25 **or their beneficiaries under this chapter for the calendar year next**
26 **preceding the due date of the payment. Compensation to be**
27 **considered for purposes of calculating the assessment includes**
28 **payments for occupational diseases paid to employees with**
29 **occupational diseases or their beneficiaries under this chapter but**
30 **excludes payments for medical payments.**

31 (b) The sums shall be paid by the worker's compensation board
32 to the treasurer of state to be deposited in a special account known
33 as the occupational diseases second injury fund. The funds are not
34 part of the state general fund. Any balance remaining in the
35 account at the end of any fiscal year does not revert to the state
36 general fund. The funds shall be used only for the payment of
37 awards of compensation and expense of medical examinations or
38 treatment made and ordered by the board and chargeable against

1 the occupational diseases second injury fund under this section and
 2 shall be paid for that purpose by the treasurer of state upon award
 3 or order of the board.

4 (c) If an employee who is entitled to compensation under this
 5 chapter either:

6 (1) exhausts the maximum benefits under section 19 of this
 7 chapter without having received the full amount of award
 8 granted to the employee under section 16 of this chapter; or

9 (2) exhausts the employee's benefits under section 16 of this
 10 chapter;

11 the employee may apply to the worker's compensation board,
 12 which may award the employee compensation from the
 13 occupational diseases second injury fund established by this
 14 section, as provided under subsection (d).

15 (d) An employee who has exhausted the employee's maximum
 16 benefits under section 10 of this chapter may be awarded
 17 additional compensation equal to sixty-six and two-thirds percent
 18 (66 2/3%) of the employee's average weekly wage at the time of the
 19 employee's disablement from occupational disease, not to exceed
 20 the maximum then applicable under section 19 of this chapter for
 21 a period not to exceed one hundred fifty (150) weeks upon
 22 competent evidence sufficient to establish:

23 (1) that the employee is totally and permanently disabled from
 24 an occupational disease (as defined in section 10 of this
 25 chapter) of which there are or have been objective conditions
 26 and symptoms proven that are not within the physical or
 27 mental control of the employee; and

28 (2) that the employee is unable to support the employee in any
 29 gainful employment not associated with rehabilitative or
 30 vocational therapy.

31 (e) The additional award may be renewed during the employee's
 32 total and permanent disability after appropriate hearings by the
 33 worker's compensation board for successive periods not to exceed
 34 one hundred fifty (150) weeks each.

35 SECTION 17. IC 22-3-7-17 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) During the
 37 period of disablement, the employer shall furnish or cause to be
 38 furnished, free of charge to the employee, an attending physician for

1 the treatment of his occupational disease, and in addition thereto such
2 surgical, hospital, and nursing services and supplies as the attending
3 physician or the worker's compensation board may deem necessary. If
4 the employee is requested or required by the employer to submit to
5 treatment outside the county of employment, ~~said the~~ employer shall
6 also pay the reasonable expense of travel, food, and lodging necessary
7 during the travel, but not to exceed the amount paid at the time of ~~said~~
8 **the** travel by the state of Indiana to its employees.

9 (b) During the period of disablement resulting from the occupational
10 disease, the employer shall furnish such physician, services, and
11 supplies, and the worker's compensation board may, on proper
12 application of either party, require that treatment by such physician and
13 such services and supplies be furnished by or on behalf of the employer
14 as the board may deem reasonably necessary.

15 (c) **No representative of the employer or insurance carrier,**
16 **including case managers or rehabilitation nurses, may be present**
17 **at any treatment of an employee with an occupational disease**
18 **without the express written consent of the employee and the**
19 **treating medical personnel. At the time of any medical treatment**
20 **that a representative of the employer wishes to attend, the**
21 **representative of the employer shall inform the employee with an**
22 **occupational disease and treating medical personnel that their**
23 **written consent is required before the attendance of the employer's**
24 **representative. The employee's compensation and benefits may not**
25 **be jeopardized in any way due to the employer's failure or refusal**
26 **to complete a written waiver allowing the attendance of the**
27 **employer's representative. The employer's representative may not**
28 **in any way cause the employee to believe that the employee's**
29 **compensation and benefits will be terminated if the employee fails**
30 **or refuses to complete a written waiver allowing the attendance of**
31 **the employer's representative. The written waivers shall be**
32 **executed on forms prescribed by the board.**

33 (d) After an employee's occupational disease has been adjudicated
34 by agreement or award on the basis of permanent partial impairment
35 and within the statutory period for review in such case as provided in
36 section 27(i) of this chapter, the employer may continue to furnish a
37 physician or a surgeon and other medical services and supplies, and the
38 board may, within such statutory period for review as provided in

section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and his right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for his disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

~~(e)~~ (e) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(d)~~ (f) If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within

the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within ~~said~~ **the** period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(g)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or

(2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(h)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 18. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars (\$135); and

(B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars (\$156); and

(B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars (\$180); and

(B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

- 1 (B) not less than seventy-five dollars (\$75);
- 2 (5) on and after July 1, 1980, and before July 1, 1983, the average
- 3 weekly wages are considered to be:
- 4 (A) not more than two hundred ten dollars (\$210); and
- 5 (B) not less than seventy-five dollars (\$75);
- 6 (6) on and after July 1, 1983, and before July 1, 1984, the average
- 7 weekly wages are considered to be:
- 8 (A) not more than two hundred thirty-four dollars (\$234); and
- 9 (B) not less than seventy-five dollars (\$75); and
- 10 (7) on and after July 1, 1984, and before July 1, 1985, the average
- 11 weekly wages are considered to be:
- 12 (A) not more than two hundred forty-nine dollars (\$249); and
- 13 (B) not less than seventy-five dollars (\$75).
- 14 (b) In computing compensation for temporary total disability,
- 15 temporary partial disability, and total permanent disability, with respect
- 16 to occupational diseases occurring on and after July 1, 1985, and before
- 17 July 1, 1986, the average weekly wages are considered to be:
- 18 (1) not more than two hundred sixty-seven dollars (\$267); and
- 19 (2) not less than seventy-five dollars (\$75).
- 20 (c) In computing compensation for temporary total disability,
- 21 temporary partial disability, and total permanent disability, with respect
- 22 to occupational diseases occurring on and after July 1, 1986, and before
- 23 July 1, 1988, the average weekly wages are considered to be:
- 24 (1) not more than two hundred eighty-five dollars (\$285); and
- 25 (2) not less than seventy-five dollars (\$75).
- 26 (d) In computing compensation for temporary total disability,
- 27 temporary partial disability, and total permanent disability, with respect
- 28 to occupational diseases occurring on and after July 1, 1988, and before
- 29 July 1, 1989, the average weekly wages are considered to be:
- 30 (1) not more than three hundred eighty-four dollars (\$384); and
- 31 (2) not less than seventy-five dollars (\$75).
- 32 (e) In computing compensation for temporary total disability,
- 33 temporary partial disability, and total permanent disability, with respect
- 34 to occupational diseases occurring on and after July 1, 1989, and before
- 35 July 1, 1990, the average weekly wages are considered to be:
- 36 (1) not more than four hundred eleven dollars (\$411); and
- 37 (2) not less than seventy-five dollars (\$75).
- 38 (f) In computing compensation for temporary total disability,

1 temporary partial disability, and total permanent disability, with respect
2 to occupational diseases occurring on and after July 1, 1990, and before
3 July 1, 1991, the average weekly wages are considered to be:

- 4 (1) not more than four hundred forty-one dollars (\$441); and
- 5 (2) not less than seventy-five dollars (\$75).

6 (g) In computing compensation for temporary total disability,
7 temporary partial disability, and total permanent disability, with respect
8 to occupational diseases occurring on and after July 1, 1991, and before
9 July 1, 1992, the average weekly wages are considered to be:

- 10 (1) not more than four hundred ninety-two dollars (\$492); and
- 11 (2) not less than seventy-five dollars (\$75).

12 (h) In computing compensation for temporary total disability,
13 temporary partial disability, and total permanent disability, with respect
14 to occupational diseases occurring on and after July 1, 1992, and before
15 July 1, 1993, the average weekly wages are considered to be:

- 16 (1) not more than five hundred forty dollars (\$540); and
- 17 (2) not less than seventy-five dollars (\$75).

18 (i) In computing compensation for temporary total disability,
19 temporary partial disability, and total permanent disability, with respect
20 to occupational diseases occurring on and after July 1, 1993, and before
21 July 1, 1994, the average weekly wages are considered to be:

- 22 (1) not more than five hundred ninety-one dollars (\$591); and
- 23 (2) not less than seventy-five dollars (\$75).

24 (j) In computing compensation for temporary total disability,
25 temporary partial disability and total permanent disability, with respect
26 to occupational diseases occurring on and after July 1, 1994, and before
27 July 1, 1997, the average weekly wages are considered to be:

- 28 (1) not more than six hundred forty-two dollars (\$642); and
- 29 (2) not less than seventy-five dollars (\$75).

30 (k) In computing compensation for temporary total disability,
31 temporary partial disability, and total permanent disability, the average
32 weekly wages are considered to be:

- 33 (1) with respect to occupational diseases occurring on and after
34 July 1, 1997, and before July 1, 1998:

- 35 (A) not more than six hundred seventy-two dollars (\$672); and
- 36 (B) not less than seventy-five dollars (\$75);

- 37 (2) with respect to occupational diseases occurring on and after
38 July 1, 1998, and before July 1, 1999:

- 1 (A) not more than seven hundred two dollars (\$702); and
 2 (B) not less than seventy-five dollars (\$75);
 3 (3) with respect to occupational diseases occurring on and after
 4 July 1, 1999, and before July 1, 2000:
 5 (A) not more than seven hundred thirty-two dollars (\$732);
 6 and
 7 (B) not less than seventy-five dollars (\$75); ~~and~~
 8 (4) with respect to occupational diseases ~~occurring~~ **occurring** on
 9 and after July 1, 2000, **and before July 1, 2001:**
 10 (A) not more than seven hundred sixty-two dollars (\$762); and
 11 (B) not less than seventy-five dollars (\$75);
 12 **(5) with respect to occupational diseases occurring on and**
 13 **after July 1, 2001, and before July 1, 2002:**
 14 **(A) not more than eight hundred seven dollars (\$807); and**
 15 **(B) not less than seventy-five dollars (\$75); and**
 16 **(6) with respect to occupational diseases occurring on and**
 17 **after July 1, 2002:**
 18 **(A) not more than eight hundred forty dollars (\$840); and**
 19 **(B) not less than seventy-five dollars (\$75).**
 20 (l) The maximum compensation that shall be paid for occupational
 21 disease and its results under any one (1) or more provisions of this
 22 chapter with respect to disability or death occurring:
 23 (1) on and after July 1, 1974, and before July 1, 1976, shall not
 24 exceed forty-five thousand dollars (\$45,000) in any case;
 25 (2) on and after July 1, 1976, and before July 1, 1977, shall not
 26 exceed fifty-two thousand dollars (\$52,000) in any case;
 27 (3) on and after July 1, 1977, and before July 1, 1979, may not
 28 exceed sixty thousand dollars (\$60,000) in any case;
 29 (4) on and after July 1, 1979, and before July 1, 1980, may not
 30 exceed sixty-five thousand dollars (\$65,000) in any case;
 31 (5) on and after July 1, 1980, and before July 1, 1983, may not
 32 exceed seventy thousand dollars (\$70,000) in any case;
 33 (6) on and after July 1, 1983, and before July 1, 1984, may not
 34 exceed seventy-eight thousand dollars (\$78,000) in any case; and
 35 (7) on and after July 1, 1984, and before July 1, 1985, may not
 36 exceed eighty-three thousand dollars (\$83,000) in any case.
 37 (m) The maximum compensation with respect to disability or death
 38 occurring on and after July 1, 1985, and before July 1, 1986, which

1 shall be paid for occupational disease and the results thereof under the
2 provisions of this chapter or under any combination of its provisions
3 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
4 The maximum compensation with respect to disability or death
5 occurring on and after July 1, 1986, and before July 1, 1988, which
6 shall be paid for occupational disease and the results thereof under the
7 provisions of this chapter or under any combination of its provisions
8 may not exceed ninety-five thousand dollars (\$95,000) in any case. The
9 maximum compensation with respect to disability or death occurring
10 on and after July 1, 1988, and before July 1, 1989, that shall be paid for
11 occupational disease and the results thereof under this chapter or under
12 any combination of its provisions may not exceed one hundred
13 twenty-eight thousand dollars (\$128,000) in any case.

14 (n) The maximum compensation with respect to disability or death
15 occurring on and after July 1, 1989, and before July 1, 1990, that shall
16 be paid for occupational disease and the results thereof under this
17 chapter or under any combination of its provisions may not exceed one
18 hundred thirty-seven thousand dollars (\$137,000) in any case.

19 (o) The maximum compensation with respect to disability or death
20 occurring on and after July 1, 1990, and before July 1, 1991, that shall
21 be paid for occupational disease and the results thereof under this
22 chapter or under any combination of its provisions may not exceed one
23 hundred forty-seven thousand dollars (\$147,000) in any case.

24 (p) The maximum compensation with respect to disability or death
25 occurring on and after July 1, 1991, and before July 1, 1992, that shall
26 be paid for occupational disease and the results thereof under this
27 chapter or under any combination of the provisions of this chapter may
28 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
29 case.

30 (q) The maximum compensation with respect to disability or death
31 occurring on and after July 1, 1992, and before July 1, 1993, that shall
32 be paid for occupational disease and the results thereof under this
33 chapter or under any combination of the provisions of this chapter may
34 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

35 (r) The maximum compensation with respect to disability or death
36 occurring on and after July 1, 1993, and before July 1, 1994, that shall
37 be paid for occupational disease and the results thereof under this
38 chapter or under any combination of the provisions of this chapter may

1 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
2 any case.

3 (s) The maximum compensation with respect to disability or death
4 occurring on and after July 1, 1994, and before July 1, 1997, that shall
5 be paid for occupational disease and the results thereof under this
6 chapter or under any combination of the provisions of this chapter may
7 not exceed two hundred fourteen thousand dollars (\$214,000) in any
8 case.

9 (t) The maximum compensation that shall be paid for occupational
10 disease and the results of an occupational disease under this chapter or
11 under any combination of the provisions of this chapter may not exceed
12 the following amounts in any case:

13 (1) With respect to disability or death occurring on and after July
14 1, 1997, and before July 1, 1998, two hundred twenty-four
15 thousand dollars (\$224,000).

16 (2) With respect to disability or death occurring on and after July
17 1, 1998, and before July 1, 1999, two hundred thirty-four
18 thousand dollars (\$234,000).

19 (3) With respect to disability or death occurring on and after July
20 1, 1999, and before July 1, 2000, two hundred forty-four thousand
21 dollars (\$244,000).

22 (4) With respect to disability or death occurring on and after July
23 1, 2000, **and before July 1, 2001**, two hundred fifty-four
24 thousand dollars (\$254,000).

25 **(5) With respect to disability or death occurring on and after**
26 **July 1, 2001, and before July 1, 2002, two hundred sixty-nine**
27 **thousand dollars (\$269,000).**

28 **(6) With respect to disability or death occurring on and after**
29 **July 1, 2002, two hundred eighty thousand dollars (\$280,000).**

30 (u) For all disabilities occurring before July 1, 1985, "average
31 weekly wages" shall mean the earnings of the injured employee in the
32 employment in which the employee was working at the time of the last
33 exposure during the period of fifty-two (52) weeks immediately
34 preceding the last day of the last exposure divided by fifty-two (52). If
35 the employee lost seven (7) or more calendar days during the period,
36 although not in the same week, then the earnings for the remainder of
37 the fifty-two (52) weeks shall be divided by the number of weeks and
38 parts thereof remaining after the time lost has been deducted. Where

1 the employment prior to the last day of the last exposure extended over
2 a period of less than fifty-two (52) weeks, the method of dividing the
3 earnings during that period by the number of weeks and parts thereof
4 during which the employee earned wages shall be followed if results
5 just and fair to both parties will be obtained. Where by reason of the
6 shortness of the time during which the employee has been in the
7 employment of the employer or of the casual nature or terms of the
8 employment it is impracticable to compute the average weekly wages
9 as above defined, regard shall be had to the average weekly amount
10 which, during the fifty-two (52) weeks previous to the last day of the
11 last exposure, was being earned by a person in the same grade
12 employed at the same work by the same employer, or if there is no
13 person so employed, by a person in the same grade employed in that
14 same class of employment in the same district. Whenever allowances
15 of any character are made to an employee in lieu of wages or a
16 specified part of the wage contract, they shall be deemed a part of the
17 employee's earnings.

18 (v) For all disabilities occurring on and after July 1, 1985, "average
19 weekly wages" means the earnings of the injured employee during the
20 period of fifty-two (52) weeks immediately preceding the disability
21 divided by fifty-two (52). If the employee lost seven (7) or more
22 calendar days during the period, although not in the same week, then
23 the earnings for the remainder of the fifty-two (52) weeks shall be
24 divided by the number of weeks and parts of weeks remaining after the
25 time lost has been deducted. If employment before the date of disability
26 extended over a period of less than fifty-two (52) weeks, the method of
27 dividing the earnings during that period by the number of weeks and
28 parts of weeks during which the employee earned wages shall be
29 followed if results just and fair to both parties will be obtained. If by
30 reason of the shortness of the time during which the employee has been
31 in the employment of the employer or of the casual nature or terms of
32 the employment it is impracticable to compute the average weekly
33 wages for the employee, the employee's average weekly wages shall be
34 considered to be the average weekly amount that, during the fifty-two
35 (52) weeks before the date of disability, was being earned by a person
36 in the same grade employed at the same work by the same employer or,
37 if there is no person so employed, by a person in the same grade
38 employed in that same class of employment in the same district.

1 Whenever allowances of any character are made to an employee
2 instead of wages or a specified part of the wage contract, they shall be
3 considered a part of the employee's earnings.

4 (w) The provisions of this article may not be construed to result in
5 an award of benefits in which the number of weeks paid or to be paid
6 for temporary total disability, temporary partial disability, or permanent
7 total disability benefits combined exceeds five hundred (500) weeks.
8 This section shall not be construed to prevent a person from applying
9 for an award under IC 22-3-3-13. However, in case of permanent total
10 disability resulting from a disablement occurring on or after January 1,
11 1998, the minimum total benefit shall not be less than seventy-five
12 thousand dollars (\$75,000).

13 SECTION 19. IC 22-3-7-20 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) After
15 disablement and during the period of claimed resulting disability or
16 impairment, the employee, if so requested by the employee's employer
17 or ordered by the worker's compensation board, shall submit to an
18 examination at reasonable times and places by a duly qualified
19 physician or surgeon designated and paid by the employer or by order
20 of the board. The employee shall have the right to have present at any
21 such examination any duly qualified physician or surgeon provided and
22 paid for by the employee. No fact communicated to or otherwise
23 learned by any physician or surgeon who may have attended or
24 examined the employee, or who may have been present at any
25 examination, shall be privileged either in the hearings provided for in
26 this chapter, or in any action at law brought to recover damages against
27 any employer who is subject to the compensation provisions of this
28 chapter. If the employee refuses to submit to, or in any way obstructs
29 the examinations, the employee's right to compensation and right to
30 take or prosecute any proceedings under this chapter shall be
31 suspended until the refusal or obstruction ceases. No compensation
32 shall at any time be payable for the period of suspension unless in the
33 opinion of the board, the circumstances justified the refusal or
34 obstruction. The employee must be served with a notice setting forth
35 the consequences of the refusal under this subsection. The notice must
36 be in a form prescribed by the worker's compensation board.

37 (b) Any employer requesting an examination of any employee
38 residing within Indiana shall pay, in advance of the time fixed for the

1 examination, sufficient money to defray the necessary expenses of
2 travel by the most convenient means to and from the place of
3 examination, and the cost of meals and lodging necessary during the
4 travel. If the method of travel is by automobile, the mileage rate to be
5 paid by the employer shall be the rate as is then currently being paid by
6 the state to its employees under the state travel policies and procedures
7 established by the department of administration and approved by the
8 state budget agency. If the examination or travel to or from the place of
9 examination causes any loss of working time on the part of the
10 employee, the employer shall reimburse the employee for the loss of
11 wages upon the basis of such employee's average daily wage.

12 (c) When any employee injured in Indiana moves outside Indiana,
13 the travel expense and the cost of meals and lodging necessary during
14 the travel, payable under this section, shall be paid from the point in
15 Indiana nearest to the employee's then residence to the place of
16 examination. No travel and other expense shall be paid for any travel
17 and other expense required outside Indiana.

18 (d) A duly qualified physician or surgeon provided and paid for by
19 the employee may be present at an examination, if the employee so
20 desires. In all cases, where the examination is made by a physician or
21 surgeon engaged by the employer and the disabled or injured employee
22 has no physician or surgeon present at the examination, it shall be the
23 duty of the physician or surgeon making the examination to deliver to
24 the injured employee, or the employee's representative, a statement in
25 writing of the conditions evidenced by such examination. The
26 statement shall disclose all facts that are reported by the physician or
27 surgeon to the employer. This statement shall be furnished to the
28 employee or the employee's representative as soon as practicable, but
29 not later than thirty (30) days before the time the case is set for hearing.
30 The statement may be submitted by either party as evidence by that
31 physician or surgeon at a hearing before the worker's compensation
32 board if the statement meets the requirements of subsection ~~(f)~~ (g). If
33 the physician or surgeon fails or refuses to furnish the employee or the
34 employee's representative with such statement thirty (30) days before
35 the hearing, then the statement may not be submitted as evidence, and
36 the physician shall not be permitted to testify before the worker's
37 compensation board as to any facts learned in the examination. All of
38 the requirements of this subsection apply to all subsequent

1 examinations requested by the employer.

2 **(e) No representative of the employer or insurance carrier,**
3 **including case managers or rehabilitation nurses, may be present**
4 **at any examination of an employee with an occupational disease**
5 **without the express written consent of the employee and the**
6 **treating medical personnel. At the time of any medical examination**
7 **that a representative of the employer wishes to attend, the**
8 **representative of the employer shall inform the employee with an**
9 **occupational disease and treating medical personnel that their**
10 **written consent is required before the attendance of the employer's**
11 **representative. The employee's compensation and benefits may not**
12 **be jeopardized in any way due to the employer's failure or refusal**
13 **to complete a written waiver allowing the attendance of the**
14 **employer's representative. The employer's representative may not**
15 **in any way cause the employee to believe that the employee's**
16 **compensation and benefits will be terminated if the employee fails**
17 **or refuses to complete a written waiver allowing the attendance of**
18 **the employer's representative. The written waivers shall be**
19 **executed on forms prescribed by the board.**

20 ~~(e)~~ **(f)** In all cases where an examination of an employee is made by
21 a physician or surgeon engaged by the employee, and the employer has
22 no physician or surgeon present at such examination, it shall be the
23 duty of the physician or surgeon making the examination to deliver to
24 the employer or the employer's representative a statement in writing of
25 the conditions evidenced by such examination. The statement shall
26 disclose all the facts that are reported by such physician or surgeon to
27 the employee. The statement shall be furnished to the employer or the
28 employer's representative as soon as practicable, but not later than
29 thirty (30) days before the time the case is set for hearing. The
30 statement may be submitted by either party as evidence by that
31 physician or surgeon at a hearing before the worker's compensation
32 board if the statement meets the requirements of subsection ~~(f)~~ **(g)**. If
33 the physician or surgeon fails or refuses to furnish the employer or the
34 employer's representative with such statement thirty (30) days before
35 the hearing, then the statement may not be submitted as evidence, and
36 the physician or surgeon shall not be permitted to testify before the
37 worker's compensation board as to any facts learned in such
38 examination. All of the requirements of this subsection apply to all

1 subsequent examinations made by a physician or surgeon engaged by
2 the employee.

3 ~~(f)~~ (g) All statements of physicians or surgeons required by this
4 section, whether those engaged by employee or employer, shall contain
5 the following information:

6 (1) The history of the injury, or claimed injury, as given by the
7 patient.

8 (2) The diagnosis of the physician or surgeon concerning the
9 patient's physical or mental condition.

10 (3) The opinion of the physician or surgeon concerning the causal
11 relationship, if any, between the injury and the patient's physical
12 or mental condition, including the physician's or surgeon's reasons
13 for the opinion.

14 (4) The opinion of the physician or surgeon concerning whether
15 the injury or claimed injury resulted in a disability or impairment
16 and, if so, the opinion of the physician or surgeon concerning the
17 extent of the disability or impairment and the reasons for the
18 opinion.

19 (5) The original signature of the physician or surgeon.

20 Notwithstanding any hearsay objection, the worker's compensation
21 board shall admit into evidence a statement that meets the requirements
22 of this subsection unless the statement is ruled inadmissible on other
23 grounds.

24 ~~(g)~~ (h) Delivery of any statement required by this section may be
25 made to the attorney or agent of the employer or employee and such an
26 action shall be construed as delivery to the employer or employee.

27 ~~(h)~~ (i) Any party may object to a statement on the basis that the
28 statement does not meet the requirements of subsection ~~(e)~~ (f). The
29 objecting party must give written notice to the party providing the
30 statement and specify the basis for the objection. Notice of the
31 objection must be given no later than twenty (20) days before the
32 hearing. Failure to object as provided in this subsection precludes any
33 further objection as to the adequacy of the statement under subsection
34 ~~(f)~~ (g).

35 ~~(i)~~ (j) The employer upon proper application, or the worker's
36 compensation board, shall have the right in any case of death to require
37 an autopsy at the expense of the party requesting the same. If, after a
38 hearing, the board orders an autopsy and the autopsy is refused by the

1 surviving spouse or next of kin, in this event any claim for
 2 compensation on account of the death shall be suspended and abated
 3 during the refusal. The surviving spouse or dependent must be served
 4 with a notice setting forth the consequences of the refusal under this
 5 subsection. The notice must be in a form prescribed by the worker's
 6 compensation board. No autopsy, except one performed by or on the
 7 authority or order of the coroner in discharge of the coroner's duties,
 8 shall be held in any case by any person without notice first being given
 9 to the surviving spouse or next of kin, if they reside in Indiana or their
 10 whereabouts can reasonably be ascertained, of the time and place
 11 thereof, and reasonable time and opportunity shall be given such
 12 surviving spouse or next of kin to have a representative or
 13 representatives present to witness same. However, if such notice is not
 14 given, all evidence obtained by the autopsy shall be suspended on
 15 motion duly made to the board.

16 SECTION 20. IC 22-4-2-12 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. "Base period"
 18 means the ~~first four (4) of the last five (5)~~ **four (4)** completed calendar
 19 quarters immediately preceding the first day of an individual's benefit
 20 period. ~~Provided, However, That~~ for a claim computed in accordance
 21 with IC ~~1971~~, 22-4-22, the base period shall be the base period as
 22 outlined in the paying state's law.

23 SECTION 21. IC 22-4-4-3 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) For calendar
 25 quarters beginning on and after April 1, 1979, and before April 1,
 26 1984, "wage credits" means remuneration paid for employment by an
 27 employer to an individual. Wage credits may not exceed three thousand
 28 six hundred sixty-six dollars (\$3,666) and may not include payments
 29 specified in section 2(b) of this chapter.

30 (b) For calendar quarters beginning on and after April 1, 1984, and
 31 before April 1, 1985, "wage credits" means remuneration paid for
 32 employment by an employer to an individual. Wage credits may not
 33 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
 34 may not include payments specified in section 2(b) of this chapter.

35 (c) For calendar quarters beginning on and after April 1, 1985, and
 36 before January 1, 1991, "wage credits" means remuneration paid for
 37 employment by an employer to an individual. Wage credits may not
 38 exceed four thousand one hundred eighty-six dollars (\$4,186) and may

1 not include payments specified in section 2(b) of this chapter.

2 (d) For calendar quarters beginning on and after January 1, 1991,
3 and before July 1, 1995, "wage credits" means remuneration paid for
4 employment by an employer to an individual. Wage credits may not
5 exceed four thousand eight hundred ten dollars (\$4,810) and may not
6 include payments specified in section 2(b) of this chapter.

7 (e) For calendar quarters beginning on and after July 1, 1995, and
8 before July 1, 1997, "wage credits" means remuneration paid for
9 employment by an employer to an individual and remuneration
10 received as tips or gratuities in accordance with Sections 3301 and
11 3102 et seq. of the Internal Revenue Code. Wage credits may not
12 exceed five thousand dollars (\$5,000) and may not include payments
13 specified in section 2(b) of this chapter.

14 (f) For calendar quarters beginning on and after July 1, 1997, and
15 before July 1, 1998, "wage credits" means remuneration paid for
16 employment by an employer to an individual and remuneration
17 received as tips or gratuities in accordance with Sections 3301 and
18 3102 et seq. of the Internal Revenue Code. Wage credits may not
19 exceed five thousand four hundred dollars (\$5,400) and may not
20 include payments specified in section 2(b) of this chapter.

21 (g) For calendar quarters beginning on and after July 1, 1998, and
22 before July 1, 1999, "wage credits" means remuneration paid for
23 employment by an employer to an individual and remuneration
24 received as tips or gratuities in accordance with Sections 3301 and
25 3102 et seq. of the Internal Revenue Code. Wage credits may not
26 exceed five thousand six hundred dollars (\$5,600) and may not include
27 payments that are excluded from the definition of wages under section
28 2(b) of this chapter.

29 (h) For calendar quarters beginning on and after July 1, 1999, **and**
30 **before July 1, 2000**, "wage credits" means remuneration paid for
31 employment by an employer to an individual and remuneration
32 received as tips or gratuities in accordance with Sections 3301 and
33 3102 et seq. of the Internal Revenue Code. Wage credits may not
34 exceed five thousand eight hundred dollars (\$5,800) and may not
35 include payments that are excluded from the definition of wages under
36 section 2(b) of this chapter.

37 (i) **For calendar quarters beginning on and after July 1, 2000,**
38 **"wage credits" means remuneration paid for employment by an**

1 employer to an individual and remuneration received as tips or
 2 gratuities in accordance with Sections 3301 and 3102 et seq. of the
 3 Internal Revenue Code. Wage credits may not include payments
 4 that are excluded from the definition of wages under section 2(b)
 5 of this chapter and may not exceed the following:

6 (1) Seven thousand two hundred dollars (\$7,200) in a calendar
 7 quarter beginning on and after July 1, 2000.

8 (2) Eight thousand six hundred dollars (\$8,600) in a calendar
 9 quarter beginning on and after July 1, 2001.

10 (3) Ten thousand dollars (\$10,000) in a calendar quarter
 11 beginning on and after July 1, 2002.

12 SECTION 22. IC 22-4-12-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Benefits shall be
 14 computed upon the basis of wage credits of an individual in his base
 15 period. Wage credits shall be reported by the employer and credited to
 16 the individual in the manner prescribed by the board. With respect to
 17 initial claims filed for any week beginning on and after July 4, 1959,
 18 and before July 7, 1991, the maximum total amount of benefits payable
 19 to any eligible individual during any benefit period shall not exceed
 20 twenty-six (26) times his weekly benefit, or twenty-five percent (25%)
 21 of his wage credits with respect to his base period, whichever is the
 22 lesser.

23 (b) With respect to initial claims filed for any week beginning on
 24 and after July 7, 1991, **and before July 1, 1999**, the maximum total
 25 amount of benefits payable to any eligible individual during any benefit
 26 period shall not exceed twenty-six (26) times the individual's weekly
 27 benefit, or twenty-eight percent (28%) of the individual's wage credits
 28 with respect to the individual's base period, whichever is less. If such
 29 maximum total amount of benefits is not a multiple of one dollar (\$1),
 30 it shall be computed to the next lower multiple of one dollar (\$1).

31 (c) **With respect to initial claims filed for any week beginning on**
 32 **and after July 1, 1999, the maximum total amount of benefits**
 33 **payable to any eligible individual during any benefit period shall**
 34 **not exceed twenty-six (26) times the individual's weekly benefit, or**
 35 **thirty-two percent (32%) of the individual's wage credits with**
 36 **respect to the individual's base period, whichever is less. If the**
 37 **maximum total amount of benefits is not a multiple of one dollar**
 38 **(\$1), it shall be computed to the next lower multiple of one dollar**

1 (~~\$1~~).

2 ~~(b)~~ (d) The total extended benefit amount payable to any eligible
3 individual with respect to his applicable benefit period shall be fifty
4 percent (50%) of the total amount of regular benefits (including
5 dependents' allowances) which were payable to him under this article
6 in the applicable benefit year, or thirteen (13) times the weekly benefit
7 amount (including dependents' allowances) which was payable to him
8 under this article for a week of total unemployment in the applicable
9 benefit year, whichever is the lesser amount.

10 ~~(c)~~ (e) This subsection applies to individuals who file a disaster
11 unemployment claim or a state unemployment insurance claim after
12 June 1, 1990, and before June 2, 1991, or during another time specified
13 in another state statute. An individual is entitled to thirteen (13) weeks
14 of additional benefits, as originally determined, if:

- 15 (1) the individual has established:
- 16 (A) a disaster unemployment claim under the Stafford Disaster
17 Relief and Emergency Assistance Act; or
- 18 (B) a state unemployment insurance claim as a direct result of
19 a major disaster;
- 20 (2) all regular benefits and all disaster unemployment assistance
21 benefits:
- 22 (A) have been exhausted by the individual; or
- 23 (B) are no longer payable to the individual due to the
24 expiration of the disaster assistance period; and
- 25 (3) the individual remains unemployed as a direct result of the
26 disaster.

27 SECTION 23. IC 22-4-14-5 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) As further
29 conditions precedent to the payment of benefits to an individual with
30 respect to benefit periods established on and after July 6, 1980, and
31 before July 7, 1985:

- 32 (1) the individual must have established, after the last day of his
33 last base period, if any, wage credits (as defined in IC 22-4-4-3)
34 and within the meaning of IC 22-4-22-3 equal to at least one and
35 one-quarter (1.25) times the wages paid to him in the calendar
36 quarter in which his wages were highest; and
- 37 (2) the individual must have established wage credits in the last
38 two (2) calendar quarters of his base period in a total amount of

1 not less than nine hundred dollars (\$900) and an aggregate
2 amount in the four (4) calendar quarters of his base period of not
3 less than one thousand five hundred dollars (\$1,500).

4 (b) As further conditions precedent to the payment of benefits to an
5 individual with respect to benefit periods established on and after July
6 7, 1985, and before January 1, 1992:

7 (1) the individual must have established, after the last day of the
8 individual's last base period, if any, wage credits (as defined in
9 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
10 least one and one-half (1.5) times the wages paid to the individual
11 in the calendar quarter in which the individual's wages were
12 highest; and

13 (2) the individual must have established wage credits in the last
14 two (2) calendar quarters of the individual's base period in a total
15 amount of not less than one thousand five hundred dollars
16 (\$1,500) and an aggregate amount in the four (4) calendar
17 quarters of the individual's base period of not less than two
18 thousand five hundred dollars (\$2,500).

19 (c) As further conditions precedent to the payment of benefits to an
20 individual with respect to benefit periods established on and after
21 January 1, 1992, and before July 1, 1995:

22 (1) the individual must have established, after the last day of the
23 individual's last base period, if any, wage credits (as defined in
24 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
25 least one and one-quarter (1.25) times the wages paid to the
26 individual in the calendar quarter in which the individual's wages
27 were highest; and

28 (2) the individual must have established wage credits in the last
29 two (2) calendar quarters of the individual's base period in a total
30 amount of not less than one thousand five hundred dollars
31 (\$1,500) and an aggregate in the four (4) calendar quarters of the
32 individual's base period of not less than two thousand five
33 hundred dollars (\$2,500).

34 (d) As further conditions precedent to the payment of benefits to an
35 individual with respect to benefit periods established on and after July
36 1, 1995, **and before July 1, 1999:**

37 (1) the individual must have established, after the last day of the
38 individual's last base period, if any, wage credits (as defined in

IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand six hundred fifty dollars (\$1,650) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand seven hundred fifty dollars (\$2,750).

(e) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1999:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand dollars (\$2,000).

~~(e)~~ **(f)** As a further condition precedent to the payment of benefits to an individual with respect to a benefit year established on and after July 1, 1995, an insured worker may not receive benefits in a benefit year unless after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed insured work and earned wages in employment under IC 22-4-8 in an amount not less than the individual's weekly benefit amount established for the individual in the preceding benefit year in each of eight (8) weeks.

SECTION 24. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left his employment without good cause in connection with the work or who was discharged from his employment for just cause is ineligible for ~~waiting period~~ or benefit rights for the week in which the disqualifying separation occurred and until he has earned

remuneration in employment equal to or exceeding the weekly benefit amount of his claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) ~~When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of his current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction will be limited to the unpaid balance.~~

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from his prior employment if:

(A) he left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of betterment of wages or working conditions and thereafter was employed on said job for not less than ten (10) weeks;

(B) having been simultaneously employed by two (2) employers, he leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) he left to accept recall made by a base-period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

1 (4) An individual whose employment is terminated under the
2 compulsory retirement provision of a collective bargaining
3 agreement to which the employer is a party, or under any other
4 plan, system, or program, public or private, providing for
5 compulsory retirement and who is otherwise eligible shall not be
6 deemed to have left his work voluntarily without good cause in
7 connection with the work. However, if such individual
8 subsequently becomes reemployed and thereafter voluntarily
9 leaves work without good cause in connection with the work, he
10 shall be deemed ineligible as outlined in this section.

11 (5) An otherwise eligible individual shall not be denied benefits
12 for any week because he is in training approved under Section
13 236(a)(1) of the Trade Act of 1974, nor shall the individual be
14 denied benefits by reason of leaving work to enter such training,
15 provided the work left is not suitable employment, or because of
16 the application to any week in training of provisions in this law
17 (or any applicable federal unemployment compensation law),
18 relating to availability for work, active search for work, or refusal
19 to accept work. For purposes of this subdivision, the term
20 "suitable employment" means with respect to an individual, work
21 of a substantially equal or higher skill level than the individual's
22 past adversely affected employment (as defined for purposes of
23 the Trade Act of 1974), and wages for such work at not less than
24 eighty percent (80%) of the individual's average weekly wage as
25 determined for the purposes of the Trade Act of 1974.

26 (6) An individual is not subject to disqualification because of
27 separation from the individual's prior employment if:

28 (A) the prior employment was outside the individual's labor
29 market;

30 (B) the individual left to accept previously secured full-time
31 work with an employer in the individual's labor market; and

32 (C) the individual actually became employed with the
33 employer in the individual's labor market.

34 (7) An individual who, but for the voluntary separation to move
35 to another labor market to join a spouse who had moved to that
36 labor market, shall not be disqualified for that voluntary
37 separation, if the individual is otherwise eligible for benefits.
38 Benefits paid to the spouse whose eligibility is established under

1 this subdivision shall not be charged against the employer from
2 whom the spouse voluntarily separated.

3 As used in this subsection, "labor market" means the area surrounding
4 an individual's permanent residence, outside which the individual
5 cannot reasonably commute on a daily basis. In determining whether
6 an individual can reasonably commute under this subdivision, the
7 department shall consider the nature of the individual's job.

8 ~~(d)~~ (c) "Discharge for just cause" as used in this section is defined
9 to include but not be limited to:

- 10 (1) separation initiated by an employer for falsification of an
- 11 employment application to obtain employment through
- 12 subterfuge;
- 13 (2) knowing violation of a reasonable and uniformly enforced rule
- 14 of an employer;
- 15 (3) unsatisfactory attendance, if the individual cannot show good
- 16 cause for absences or tardiness;
- 17 (4) damaging the employer's property through willful negligence;
- 18 (5) refusing to obey instructions;
- 19 (6) reporting to work under the influence of alcohol or drugs or
- 20 consuming alcohol or drugs on employer's premises during
- 21 working hours;
- 22 (7) conduct endangering safety of self or coworkers; or
- 23 (8) incarceration in jail following conviction of a misdemeanor or
- 24 felony by a court of competent jurisdiction or for any breach of
- 25 duty in connection with work which is reasonably owed an
- 26 employer by an employee.

27 SECTION 25. IC 27-1-10-4 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. (a) Upon
29 authorization of the dissolution, the board of directors shall then
30 proceed to **do all the following**:

- 31 ~~(a)~~ (1) Cause a notice that the corporation is about to be dissolved
- 32 to be published at least once in a newspaper of general
- 33 circulation, printed and published in the English language, in the
- 34 county in which the principal office of the corporation is located,
- 35 and at least once in a newspaper of general circulation, printed
- 36 and published in the English language in the city of Indianapolis,
- 37 Marion County, Indiana, and to be mailed to each creditor of the
- 38 corporation.

~~(b)~~ (2) Collect all of the corporate assets.

~~(c)~~ (3) Pay and discharge all of the corporate debts and liabilities, **including any tax, penalty, and interest that have accrued under this article. and**

~~(d)~~ (4) After the expiration of a period of thirty (30) days following the publication and mailing of said notice, distribute the remaining corporate assets and property among the shareholders, members or policyholders according to their respective interests.

(b) In case the holders of shares or policies are unknown or shall fail or refuse to accept their distributive shares in such property and assets, or are under any disability, or can not be found, after diligent inquiry or in case the ownership of any shares or policies is in dispute, the board of directors shall deposit the distributive portions of such shares of stock or policies with the clerk of the circuit court in the county in which the principal office is located for the use and benefit of those who may be lawfully entitled thereto, and such deposit shall have the same force and effect as if payment had been made directly to and accepted by the persons lawfully entitled thereto. Such distributive shares shall be paid over by such clerk to such shareholders or policyholders, respectively, or to the lawful owner of the shares or policies, the ownership of which has been in dispute, or to their respective legal representatives, upon satisfactory proof being made to such clerk of their respective rights thereto.

SECTION 26. IC 27-1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

(1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

~~(c)(1)~~ (c) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to ~~two percent~~ ~~(2%)~~ of the excess, if any, of the gross premiums over the allowable deductions **multiplied by the following rate for the year that the report covers:**

(1) For 2000, one and ninety-five hundredths percent (1.95%).

(2) For 2001, one and nine-tenths percent (1.9%).

(3) For 2002, one and eighty-five hundredths percent (1.85%).

(4) For 2003, one and eight-tenths percent (1.8%).

(5) For 2004 and thereafter, one and seventy-five hundredths percent (1.75%).

~~(c)(2)~~ (d) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due

1 and payable on or before April 15, June 15, September 15, and
2 December 15, of the current calendar year.

3 ~~(c)(3)~~ (e) Any balance due shall be paid in the next succeeding
4 calendar year at the time designated for the filing of the annual report
5 with the department.

6 ~~(c)(4)~~ (f) Any overpayment of the estimated tax during the
7 preceding calendar year shall be allowed as a credit against the liability
8 for the first installment of the current calendar year.

9 ~~(c)(5)~~ (g) In the event a company subject to taxation under this
10 section fails to make any quarterly payment in an amount equal to at
11 least:

12 ~~(i)~~ (1) twenty-five percent (25%) of the total tax paid during the
13 preceding calendar year; or

14 ~~(ii)~~ (2) twenty per cent (20%) of the actual tax for the current
15 calendar year;

16 the company shall be liable, in addition to the amount due, for interest
17 in the amount of one percent (1%) of the amount due and unpaid for
18 each month or part of a month that the amount due, together with
19 interest, remains unpaid. This interest penalty shall be exclusive of and
20 in addition to any other fee, assessment, or charge made by the
21 department.

22 ~~(d)~~ (h) The taxes under this article shall be in lieu of all license fees
23 or privilege or other tax levied or assessed by this state or by any
24 municipality, county, or other political subdivision of this state. No
25 municipality, county, or other political subdivision of this state shall
26 impose any license fee or privilege or other tax upon any insurance
27 company or any of its agents for the privilege of doing an insurance
28 business therein, except the tax authorized by IC 22-12-6-5. However,
29 the taxes authorized under IC 22-12-6-5 shall be credited against the
30 taxes provided under this chapter. This section shall not be construed
31 to prohibit the levy and collection of state, county, or municipal taxes
32 upon real and tangible personal property of such company, or to
33 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by
34 law. However, all insurance companies, foreign or domestic, paying
35 taxes in this state predicated in part on their premium income from
36 policies sold and premiums received in Indiana, shall have the same
37 rights and privileges from further taxation and shall be given the same
38 credits wherever applicable, as those set out for those companies

1 paying ~~only~~ a tax on premiums as set out in this section.

2 ~~(e)~~ (i) Any insurance company failing or refusing, for more than
 3 thirty (30) days, to render an accurate account of its premium receipts
 4 as provided in this section and pay the tax due thereon shall be subject
 5 to a penalty of one hundred dollars (\$100) for each additional day such
 6 report and payment shall be delayed, to be recovered in an action in the
 7 name of the state of Indiana on the relation of the department of
 8 insurance, in any court of competent jurisdiction, and it shall be the
 9 duty of the department to revoke all authority of such defaulting
 10 company to do business within this state, or suspend such authority
 11 during the period of such default, in the discretion of the department.

12 SECTION 27. IC 27-14 IS ADDED TO THE INDIANA CODE AS
 13 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 14 1999]:

15 **ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY**
 16 **LAW**

17 **Chapter 1. General Provisions and Definitions**

18 **Sec. 1. This article may be referred to as the Indiana mutual**
 19 **insurance holding company law.**

20 **Sec. 2. (a) The requirements of this section constitute the**
 21 **members' surplus protection principle for purposes of this article.**

22 **(b) For purposes of this article:**

23 **(1) a mutual insurance company (MIC) is owned by the**
 24 **members of the mutual insurance company; and**

25 **(2) a mutual insurance holding company (MIHC) organized**
 26 **under this article is owned by the members of the mutual**
 27 **insurance holding company.**

28 **(c) The members' surplus must be maintained for the exclusive**
 29 **benefit of the members of the MIHC.**

30 **(d) Except as provided by subsection (e), after the effective date**
 31 **of a reorganization under this article:**

32 **(1) a dividend authorized for or paid to the shareholders of**
 33 **any subsidiary of the MIHC;**

34 **(2) an employee benefit plan provision; and**

35 **(3) other actions of an MIHC or its subsidiaries;**

36 **may not be made, granted, enforced, or taken if the dividend,**
 37 **benefit, payment, or other action reduces the members' surplus.**

38 **(e) Only the following may decrease the members' surplus:**

(1) Dividends paid to eligible persons who were members of the MIC on the effective date of the reorganization.

(2) Supervision of a subsidiary of the MIHC under IC 27-9.

(3) A reduction in the market value of a security or other asset of the members' surplus.

(f) The commissioner may not take or permit an action under this title that conflicts with the members' surplus protection principle of this section.

(g) For the purposes of this article, ownership means that the policyholders or members having voting rights as provided by law and by the MIC's or MIHC's articles of incorporation and bylaws and the right to receive cash, stock, or other assets in the event of a conversion to a stock company under IC 27-1-8-13 or a dissolution under IC 27-1-10, as provided by those laws and by the MIC's or MIHC's articles of incorporation or bylaws.

(h) Notwithstanding any provision of this article, if an MIHC converts to a stock insurance company under this title, the members' surplus must be maintained for the exclusive benefit of, or available for distribution to, the eligible members of the MIC that reorganized as an MIHC.

Sec. 3. The definitions set forth in this chapter apply throughout this article.

Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

(1) a knowing participation in a joint activity whether or not under an express agreement;

(2) interdependent conscious parallel action toward a common goal under an express agreement or otherwise; or

(3) a combination or pooling of voting interests or other interests in the securities of any person for a common purpose under any contract, understanding, relationship, agreement, or other arrangement, written or otherwise.

(b) An employee benefit plan is acting in concert with:

(1) its trustee; or

(2) a person who serves in a capacity similar to a trustee; solely for the purpose of determining whether capital stock held by the trustee or the person in a similar capacity and capital stock held by the plan will be aggregated.

Sec. 5. "Adoption date" means, with respect to a plan, the date

on which the board of directors approves a plan of an applicant under this article.

Sec. 6. "Affiliate" means a person who, directly or indirectly:

- (1) controls;**
- (2) is controlled by; or**
- (3) is under common control with;**

another person.

Sec. 7. "Applicant" means, with respect to a plan, a person that has submitted the plan to the commissioner under this article.

Sec. 8. (a) Subject to subsection (b), "associate" means any of the following:

(1) With respect to a particular person, a corporation, a business entity, or other organization (other than the applicant or a subsidiary or an affiliate of the applicant) for which the person is:

- (A) an officer;**
- (B) a partner; or**
- (C) directly or indirectly the beneficial owner of at least ten percent (10%) of any class of equity securities.**

(2) With respect to an individual who is a director or an officer of the applicant or of any of the applicant's subsidiaries or affiliates, a:

- (A) relative;**
- (B) spouse; or**
- (C) relative of the spouse;**

of the individual who shares the domicile of the individual.

(3) With respect to a particular person, any trust or other estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar fiduciary capacity.

(b) The term does not apply to a person that:

- (1) has a beneficial interest in; or**
- (2) serves as a trustee or in a similar fiduciary capacity for;**

an employee benefit plan.

Sec. 9. "Board" means:

- (1) the board of directors of an MIHC, an MIC, an intermediate stock holding company, or a stock insurance company subsidiary; or**

(2) another board or committee that is responsible, under the articles or bylaws of the company, for decisions involving the structure or management of an MIHC, MIC, intermediate stock holding company, or stock insurance company subsidiary.

Sec. 10. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 11. "Company" means an entity:

(1) formed and legally existing under this title; or

(2) that:

(A) is owned, entirely or in part, directly or indirectly, by an MIHC; and

(B) owns directly or indirectly all or part of the stock of a stock insurance company subsidiary.

Sec. 12. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.

Sec. 13. "Eligible member" means, with respect to a plan, a person who is a member of an MIC or MIHC, as applicable, on the adoption date of a plan.

Sec. 14. "Employee benefit plan" means an employee benefit plan established by an MIHC, or by one (1) or more of the subsidiaries of an MIHC, for the benefit of its:

(1) employees; or

(2) sales agents.

Sec. 15. "Intermediate stock holding company" means a company other than a stock insurance company subsidiary and its subsidiaries that:

(1) is owned entirely or in part, directly or indirectly, by an MIHC; and

(2) directly or indirectly owns all or part of the capital stock of a stock insurance company subsidiary.

Sec. 16. "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended.

Sec. 17. "Member" means a person that, according to the:

(1) records; and

(2) articles of incorporation and bylaws;

of an MIC or MIHC, as applicable, is a member of the MIC or MIHC, as applicable.

1 **Sec. 18. "Members' surplus"** means the surplus and any built-in
 2 gains of a mutual insurance company that exist on the effective
 3 date of a reorganization under this article.

4 **Sec. 19. "Mutual insurance company" or "MIC"** means a
 5 mutual insurer that is:

6 (1) submitting; or

7 (2) subject to;

8 a plan of reorganization under this article.

9 **Sec. 20. "Mutual insurance holding company" or "MIHC"**
 10 means a mutual insurance holding company established under
 11 IC 27-14-2.

12 **Sec. 21. "Net income after taxes and net realized gains"** means:

13 (1) as to stock insurance company subsidiaries, the net income
 14 of the stock insurance company subsidiary after:

15 (A) income taxes; and

16 (B) net realized gains (as reduced by capital gains tax, if
 17 any) on the sale of assets that were held as of the effective
 18 date of the reorganization;

19 as reported on its statutory annual statements; or

20 (2) as to any intermediate stock holding company, the
 21 consolidated net income of the intermediate stock holding
 22 company after:

23 (A) income taxes; and

24 (B) net realized gains (as reduced by capital gains tax, if
 25 any) on the sale of assets that were held as of the effective
 26 date of the reorganization;

27 as reported on its audited consolidated financial statements.

28 **Sec. 22. "Outside director"** means an individual who:

29 (1) is a member of a board of:

30 (A) an MIHC;

31 (B) an intermediate stock holding company; or

32 (C) a stock insurance company subsidiary;

33 (2) is not a member, officer, employee, or consultant of:

34 (A) the MIHC, intermediate stock holding company, or
 35 stock insurance company subsidiary on whose board the
 36 individual serves; or

37 (B) a parent company or subsidiary of the MIHC,
 38 intermediate stock holding company, or stock insurance

company subsidiary on whose board the individual serves;
 (3) does not directly or indirectly own, control, or hold any of
 the voting capital stock or other dividend paying instrument
 of:

(A) the MIHC, intermediate stock holding company, or
 stock insurance company subsidiary on whose board the
 individual serves; or

(B) a parent company or subsidiary of the MIHC,
 intermediate stock holding company, or stock insurance
 company subsidiary on whose board the individual serves;
 (4) is not an officer, member of the board of directors,
 employee, or member of the immediate family of a person
 who directly or indirectly owns, controls, or holds any of the
 voting capital stock or other dividend paying instrument of:

(A) the MIHC, intermediate stock holding company, or
 stock insurance company subsidiary on whose board the
 individual serves; or

(B) a parent company or subsidiary of the MIHC,
 intermediate stock holding company, or stock insurance
 company subsidiary on whose board the individual serves;
 and

(5) does not own a policy issued by the MIC or stock
 insurance company subsidiary of the MIHC.

Sec. 23. "Parent company" means either of the following:

(1) As to an intermediate stock holding company, the mutual
 holding company of which the intermediate stock holding
 company is a subsidiary.

(2) As to a stock insurance company subsidiary, the mutual
 holding company or intermediate stock holding company of
 which the stock insurance company subsidiary is a subsidiary.

Sec. 24. "Participating policy" means an insurance policy
 providing for the distribution of policy dividends.

Sec. 25. "Person" means any of the following:

(1) An individual.

(2) An aggregation of individuals acting in concert.

(3) A trust.

(4) An association.

(5) A partnership.

1 (6) A limited liability company.

2 (7) A corporation.

3 Sec. 26. "Plan" means a plan:

4 (1) of reorganization; or

5 (2) to issue stock.

6 Sec. 27. "Plan of reorganization" means a plan adopted under
7 IC 27-14-2.

8 Sec. 28. "Plan to issue stock" means a plan to issue shares of
9 voting capital stock adopted under IC 27-14-4.

10 Sec. 29. "Policy" means a contract providing one (1) or more of
11 the kinds of insurance described in IC 27-1-5-1.

12 Sec. 30. "Stock insurance company subsidiary" means a stock
13 insurance company that is owned entirely or in part by an MIHC
14 or an intermediate stock holding company.

15 Sec. 31. "Subsidiary" means, with respect to a particular
16 person, an affiliate of the person that is controlled by the person,
17 either:

18 (1) directly; or

19 (2) indirectly, through one (1) or more intermediaries.

20 Sec. 32. "Voting capital stock" means capital stock whose holder
21 has the right to vote in the election of directors.

22 Chapter 2. Mutual Insurance Company Reorganization

23 Sec. 1. (a) A mutual insurance company (MIC) may reorganize
24 under this chapter as a mutual insurance holding company
25 (MIHC) with one (1) or more subsidiaries after the following have
26 occurred:

27 (1) The favorable vote of its board of directors to reorganize.

28 (2) The filing of an application with the commissioner before
29 July 1, 2001.

30 (3) A notice of a public hearing is made to its members and
31 the public.

32 (4) At least one (1) public hearing conducted by the
33 commissioner.

34 (5) The approval of the commissioner of the plan.

35 (6) A favorable vote of the eligible members of the MIC.

36 (7) The issuance of an order of completion by the
37 commissioner.

38 (b) The subsidiaries of an MIC that reorganizes as an MIHC

1 under this chapter:

- 2 (1) must include at least one (1) stock insurance company
 3 subsidiary; and
 4 (2) may include one (1) or more intermediate stock holding
 5 companies.

6 Sec. 2. The reorganization of an MIC as an MIHC under this
 7 chapter may be accomplished by the following means as approved
 8 by the commissioner:

- 9 (1) The establishment of at least one (1) company.
 10 (2) The amendment or restatement of the articles and bylaws
 11 of any company.
 12 (3) The transfer or acquisition of any or all of the assets and
 13 liabilities of any company.
 14 (4) The merger of two (2) or more mutual insurance
 15 companies.
 16 (5) The merger of two (2) or more intermediate stock holding
 17 companies as part of the merger of two (2) or more MIHCs.
 18 (6) The merger of two (2) or more stock insurance companies.

19 Sec. 3. (a) A plan of reorganization under this chapter must be
 20 adopted by the board of directors of the MIC.

21 (b) For a plan of reorganization to be adopted by the board of
 22 directors of an MIC, at least seventy-five percent (75%) of the
 23 members of the board of directors must vote in favor of the
 24 adoption.

25 Sec. 4. Within ninety (90) days after the adoption of a plan of
 26 reorganization and before a vote on the plan by the members, the
 27 company adopting the plan must file with the commissioner an
 28 application containing the following:

- 29 (1) A plan of reorganization.
 30 (2) The form of the notices to be sent to members under this
 31 chapter, including a notice of the public hearing and a notice
 32 informing members of their right to vote on the plan.
 33 (3) A copy of the:
 34 (A) proposed articles of incorporation; and
 35 (B) bylaws;
 36 of each company to be formed under the plan in compliance
 37 with the requirements of IC 27-1-6.
 38 (4) If it is necessary to amend the current articles of

incorporation or bylaws of any company that is affected by the plan, a copy of:

(A) the proposed articles of amendment; and

(B) amended bylaws;

of the company, which in the case of each domestic insurance company must comply with the requirements of IC 27-1-8.

(5) A list of the officers and directors of each company that is created or affected by the plan of reorganization.

Sec. 5. A plan of reorganization filed with the commissioner under this chapter must meet the following requirements:

(1) It must describe all significant terms of the proposed reorganization.

(2) It must describe in narrative form any plan to issue stock that may be proposed in connection with the plan of reorganization.

(3) It must describe the:

(A) reasons for and purposes of the proposed reorganization; and

(B) manner in which the reorganization is expected to benefit and serve the best interests of the members.

The plan must include an analysis of the risks and benefits of the proposed reorganization, and a comparison of those risks and benefits with the risks and benefits of reasonable alternatives (including demutualization of the MIC) to the reorganization.

(4) It must provide that, after the effective date of the reorganization, the MIHC must at all times have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of:

(A) all stock insurance company subsidiaries; and

(B) an intermediate stock holding company;

of the MIHC.

(5) It must provide that:

(A) the:

(i) membership interests of the members of the MIC remain membership interests in the MIHC; and

(ii) members' surplus protection principle will govern the actions of the MIHC and its subsidiaries;

- 1 under the articles of incorporation and bylaws of the
2 MIHC;
- 3 (B) the membership interest of a member of the MIHC
4 may not be transferred, assigned, pledged, or alienated in
5 any manner except in connection with a transfer,
6 assignment, pledge, or alienation of the policy from which
7 the membership interest is derived; and
- 8 (C) the membership interest of a member of the MIHC will
9 automatically terminate upon the lapse or other
10 termination of the policy from which the membership
11 interest is derived.
- 12 (6) It must describe how the plan of reorganization is to be
13 carried out, including a description of a contemplated
14 transfer, acquisition, or assumption of assets, rights,
15 franchises, interests, debts, liabilities, or other obligations of
16 the applicant and any other company affected by the plan of
17 reorganization.
- 18 (7) It must describe the:
- 19 (A) establishment of companies;
- 20 (B) amendment or restatement of the articles and bylaws
21 of a company; and
- 22 (C) merger of companies;
- 23 that will take place under the plan of reorganization.
- 24 (8) It must provide a list of:
- 25 (A) all individuals who are or have been selected to become
26 directors or officers of the MIHC and its subsidiaries; and
- 27 (B) other individuals who perform or will perform duties
28 customarily performed by a director or officer.
- 29 (9) The list prepared under subdivision (8) must include, for
30 each individual on the list:
- 31 (A) the individual's principal occupation;
- 32 (B) all offices and positions the individual has held in the
33 preceding five (5) years;
- 34 (C) any crime of which the individual has been convicted
35 (other than traffic violations) in the preceding ten (10)
36 years;
- 37 (D) information concerning any personal bankruptcy of
38 the individual or the individual's spouse during the

- 1 previous seven (7) years;
- 2 (E) information concerning the bankruptcy of any
- 3 corporation of which the individual was an officer or
- 4 director during the previous seven (7) years;
- 5 (F) information concerning any state or federal securities
- 6 law allegations against the individual that within the
- 7 previous ten (10) years resulted in:
- 8 (i) a determination that the individual violated the state
- 9 or federal securities law;
- 10 (ii) a plea of nolo contendere; or
- 11 (iii) a consent decree;
- 12 (G) information concerning the revocation during the
- 13 previous ten (10) years of any state or federal license issued
- 14 to the individual; and
- 15 (H) information as to whether the individual was refused
- 16 a performance or other bond or any stock insurance
- 17 company subsidiary.
- 18 (10) With respect to a policy that goes into force after the
- 19 effective date of the reorganization, the policy must provide
- 20 that:
- 21 (A) the owner of the policy; or
- 22 (B) another person or persons specified in:
- 23 (i) the policy; or
- 24 (ii) the MIHC's articles of incorporation or bylaws;
- 25 becomes a member of the MIHC except that a plan of
- 26 reorganization may provide that any person who becomes an
- 27 owner of a policy or who would otherwise become a member
- 28 under a policy issued during a particular period of not more
- 29 than three (3) years immediately after the effective date of the
- 30 plan of reorganization will not become a member until after
- 31 the expiration of that period.
- 32 (11) It must provide that, with regard to a policy of the MIC
- 33 in force on the effective date of the plan of reorganization:
- 34 (A) the policy continues to remain in force under the
- 35 policy's terms as the policy of a stock insurance company
- 36 subsidiary;
- 37 (B) the policyholder continues to have the right to receive
- 38 policy dividends as provided for in the policy;

(C) the policyholder's right to benefits, values, guarantees, and other policy obligations of the MIC continues after the effective date of the plan of reorganization as obligations of the stock insurance company subsidiary; and

(D) the dividends paid on the policy after the effective date of the plan of reorganization increase in proportion to:

(i) increases in earned surplus available for the payment of dividends; and

(ii) any increase in dividends paid on policies issued after the effective date of the plan of reorganization.

(12) It must describe the nature and content of the annual report and financial statement to be sent to each member following the reorganization.

(13) It must demonstrate that, in the event of proceedings under IC 27-9 involving a stock insurance company subsidiary of the MIHC that resulted from the reorganization of a domestic MIC, the assets of the MIHC are available to satisfy the policyholder obligations of the stock insurance company subsidiary.

(14) It must provide any additional information that the commissioner may request.

Sec. 6. (a) A plan of reorganization that is adopted by the board of directors of the applicant may be:

(1) amended by the board of directors of the applicant:

(A) in response to the comments or recommendations of the commissioner, or any other state or federal agency or entity, before any solicitation of proxies from the members to vote on the plan of reorganization; and

(B) otherwise, with the consent of the commissioner; or

(2) terminated by the board of directors of the applicant:

(A) before notice is sent to the members under section 8 of this chapter; or

(B) with the consent of the commissioner.

(b) For a plan of reorganization to be:

(1) amended; or

(2) terminated;

by the board of directors of an MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor

1 of the amendment or termination.

2 **Sec. 7. (a) The commissioner shall, as soon as practicable after**
 3 **a plan of reorganization is filed with the commissioner, conduct a**
 4 **public hearing in Indianapolis at a place, date, and time specified**
 5 **by the commissioner to afford interested persons an opportunity**
 6 **to present information, views, arguments, or comments about the**
 7 **plan.**

8 **(b) At least thirty (30) days before a hearing held under this**
 9 **section, the commissioner shall publish notice of the hearing in a**
 10 **newspaper of general circulation in:**

- 11 **(1) the city of Indianapolis;**
- 12 **(2) the city in which the principal office of the applicant is**
 13 **located; and**
- 14 **(3) other cities or towns that the commissioner considers**
 15 **appropriate.**

16 **The commissioner may provide written notice of the hearing by**
 17 **other means and to other persons that the commissioner considers**
 18 **appropriate.**

19 **(c) The notice provided under this section must:**

- 20 **(1) refer to the applicable statutory provisions;**
- 21 **(2) state the date, time, and location of the hearing; and**
- 22 **(3) include a brief statement of the subject of the hearing.**

23 **(d) At a public hearing under this section, an interested person**
 24 **may appear and:**

- 25 **(1) file a written statement;**
- 26 **(2) make an oral presentation;**
- 27 **(3) pose questions to witnesses; and**
- 28 **(4) examine the evidence.**

29 **(e) At the discretion of the commissioner or the commissioner's**
 30 **appointee, testimony may be taken under oath or by affirmation at**
 31 **a public hearing under this article.**

32 **Sec. 8. The applicant shall, at least thirty (30) days before the**
 33 **public hearing required under this chapter, mail notice of the**
 34 **public hearing to eligible members of the MIC. The notice must**
 35 **achieve a minimum score of forty (40) on the Flesch reading ease**
 36 **test or an equivalent score on a comparable test approved by the**
 37 **commissioner. The notice must include the following:**

- 38 **(1) Reference to the applicable statutory provisions.**

1 (2) A statement of the date, time, and location of the hearing.

2 (3) A brief statement of the subject of the hearing, including
3 specific notice to the member that the member's ownership
4 interest in the MIC will be affected by the reorganization.

5 Sec. 9. The commissioner shall not approve a plan of
6 reorganization submitted under this article unless the applicant has
7 shown, by a preponderance of the evidence, that the plan of
8 reorganization:

9 (1) complies with the law;

10 (2) includes the disclosures and notices required under this
11 article;

12 (3) is fair to the members of the MIC; and

13 (4) complies with the members' surplus protection principle.

14 Sec. 10. Not more than one hundred eighty (180) days after the
15 filing of the application relating to the plan, or a longer period if
16 agreed to by the applicant and the commissioner, the commissioner
17 shall approve or disapprove a plan of reorganization. The
18 commissioner's approval of the plan must be conditioned upon:

19 (1) the approval of the plan by the eligible members under
20 this chapter; and

21 (2) the requirements of sections 17 and 18 of this chapter.

22 Sec. 11. The commissioner shall immediately notify the
23 applicant upon reaching a decision on a plan of reorganization.

24 Sec. 12. (a) A plan of reorganization of an MIC must be
25 submitted for approval by the eligible members of the MIC after
26 approval of the application by the commissioner under section 10
27 of this chapter. A vote by the eligible members to approve the plan
28 must be made at a special or annual meeting held under
29 IC 27-1-7-7 and this chapter.

30 (b) The eligible members must be sent notice of the meeting at
31 which a plan of reorganization will be submitted for approval by
32 eligible members. The notice must:

33 (1) be mailed at least thirty (30) days before the meeting;

34 (2) refer to the applicable statutory provisions;

35 (3) state the date, time, and location of the meeting;

36 (4) include a brief statement of the subject of the meeting; and

37 (5) describe the member's right to attend and participate in
38 the meeting.

(c) The notice sent under this section must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.

Sec. 13. Before the special or annual meeting at which the eligible members of an MIC vote on a plan of reorganization, the MIC shall provide the eligible members with information about the plan sufficient for the members, in the reasonable determination of the commissioner, to make an informed decision about the plan of reorganization.

Sec. 14. Notwithstanding IC 27-1-7-9, with respect to a vote under section 12 of this chapter, an eligible member:

(1) may vote in person or by proxy if the proxy:

(A) includes reference to the applicable statutory provisions;

(B) states the date, time, and location of the meeting;

(C) contains a brief statement of the subject of the meeting, including specific notice to the member that the member's interest in the MIC that will be affected by the reorganization; and

(D) was solicited and obtained from the member after the MIC has submitted the plan of reorganization to the commissioner under this article; and

(2) is entitled to cast only one (1) vote on the proposed plan of reorganization, regardless of the number of policies or the amount of insurance that the member has with the applicant or any affiliate of the applicant.

Sec. 15. For a plan of reorganization to be approved by members of an MIC, at least sixty-seven percent (67%) of the eligible members must vote in person or by proxy in favor of the plan.

Sec. 16. Within thirty (30) days after members have approved a plan of reorganization at a special or annual meeting of members under this chapter, an applicant must file with the commissioner the minutes of the meeting at which the plan of reorganization was approved.

Sec. 17. (a) Before the commissioner issues a permit for completion of organization under subsection (b):

(1) the commissioner must have issued notice to the applicant

1 that the commissioner has approved the plan of
2 reorganization of the applicant under section 10 of this
3 chapter;

4 (2) a public hearing must have been conducted under this
5 chapter;

6 (3) the commissioner must have received the minutes of the
7 meeting of the members at which the plan was approved
8 reflecting that the plan of reorganization was on the agenda
9 and the plan was approved, if the members voted to approve
10 the plan at a special or annual meeting; and

11 (4) the articles of incorporation of the applicant must have
12 been certified by the secretary of state and transmitted to the
13 commissioner.

14 (b) After the events referred to in subsection (a), the
15 commissioner shall issue:

16 (1) a permit for completion of organization as provided in
17 IC 27-1-6-11, in the case of a newly organized domestic
18 insurance company; or

19 (2) an amended certificate of authority as provided in
20 IC 27-1-8-9, in the case of amended articles of incorporation
21 of a domestic insurance company.

22 **Sec. 18. A plan of reorganization is effective when each stock**
23 **insurance company subsidiary or MIHC affected by the plan has**
24 **filed:**

25 (1) its articles of incorporation or, if appropriate, its articles
26 of amendment; and

27 (2) the certificate of authority issued to the company by the
28 commissioner under this chapter;

29 in the office of the county recorder of the county in which the
30 principal office of the company is located.

31 **Sec. 19. The organization of any domestic insurance company**
32 **under a plan of reorganization under this article must be**
33 **conducted under IC 27-1-6 concerning the formation of domestic**
34 **insurance companies.**

35 **Sec. 20. The amendment of the articles of incorporation of a**
36 **domestic insurance company under a plan of reorganization under**
37 **this article must be conducted in compliance with IC 27-1-8.**

38 **Chapter 3. Mutual Insurance Holding Companies**

Sec. 1. An MIHC organized under this article:

- (1) must meet the requirements of IC 27-14-2; and**
- (2) is subject to rules that the commissioner may adopt under IC 4-22-2.**

Sec. 2. The articles of incorporation of an MIHC must contain the following, or provisions at least substantially equivalent to the following:

- (1) The name of the MIHC, which must include the term "mutual" or the abbreviation "MIHC".**
 - (2) A provision that no actions will be taken by the MIHC that contravene the members' surplus protection principle established in this article.**
 - (3) A provision specifying that the MIHC must, at all times, have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.**
 - (4) A provision specifying that the MIHC does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.**
 - (5) A provision specifying that the MIHC is not authorized to issue voting or any other capital stock.**
 - (6) A provision setting forth the rights of members of the MIHC in the equity of the MIHC upon liquidation, including the rights of the members to the assets of the MIHC.**
 - (7) A provision specifying that:**
 - (A) a member of the MIHC is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the MIHC; and**
 - (B) no assessment may be imposed upon the members of the MIHC by any person, including:**
 - (i) the board of directors, members, or creditors of the MIHC; and**
 - (ii) any governmental office or official, including the commissioner;**
- because of any liability of any company or because of any act, debt, or liability of the MIHC.**

1 **Sec. 3. Members of an MIHC have rights and obligations**
 2 **specified in:**

3 (1) **this article; and**

4 (2) **the articles of incorporation and bylaws of the MIHC.**

5 **Sec. 4. (a) On the effective date of the reorganization of an MIC**
 6 **as an MIHC under this chapter, the MIHC must have the direct or**
 7 **indirect power to cast one hundred percent (100%) of the votes for**
 8 **the election of directors of:**

9 (1) **all stock insurance subsidiaries; and**

10 (2) **an intermediate stock holding company;**
 11 **of the MIC.**

12 **(b) After the effective date of the reorganization of an MIC as**
 13 **an MIHC under this chapter, the MIHC must at all times have the**
 14 **direct or indirect power to cast at least fifty-one percent (51%) of**
 15 **the votes for the election of directors of:**

16 (1) **all stock insurance company subsidiaries; and**

17 (2) **an intermediate stock holding company;**
 18 **of the MIC.**

19 **Sec. 5. Material transactions between:**

20 (1) **an MIHC and its subsidiaries; or**

21 (2) **subsidiaries of an MIHC;**

22 **must be fair and reasonable to the members of the MIHC, comply**
 23 **with the members' surplus protection principle, and be approved**
 24 **by the commissioner.**

25 **Sec. 6. At least sixty-seven percent (67%) of the following must**
 26 **be made up of outside directors:**

27 (1) **The board of directors of an MIHC.**

28 (2) **The board of directors of an intermediate stock holding**
 29 **company.**

30 (3) **The board of directors of a stock insurance company**
 31 **subsidiary.**

32 (4) **Each committee of the board of directors of:**

33 (A) **an MIHC;**

34 (B) **an intermediate stock holding company; or**

35 (C) **a stock insurance company subsidiary.**

36 **Sec. 7. With the written approval of the commissioner, and**
 37 **subject to any conditions imposed by the commissioner, an MIHC**
 38 **may do any of the following:**

- (1) Merge or consolidate with, or acquire the assets of:
 - (A) an MIHC organized under this article; or
 - (B) a similar entity organized under the laws of any other state.
- (2) Acquire the stock of a stock insurance company as a subsidiary of the MIHC or an intermediate stock holding company of the MIHC.
- (3) Organize an intermediate stock holding company as a wholly owned subsidiary.
- (4) Organize a stock insurance company as a subsidiary.
- (5) Acquire the stock or assets of any noninsurance related corporation.

Sec. 8. (a) Except as provided in subsection (b), an MIHC:

- (1) has and may exercise all the rights and privileges of insurance companies formed under this title; and
- (2) is subject to all the requirements and regulations imposed upon insurance companies formed under this title.

(b) The exceptions referred to in subsection (a) are as follows:

- (1) An MIHC does not have the right or privilege to write insurance (except through a stock insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.
- (2) An MIHC is not subject to the surplus requirements in IC 27-1-6-15.
- (3) An MIHC is not subject to any statute or rule adopted under IC 4-22-2 that is imposed upon insurance companies formed under this title to the extent that the statute or rule is in conflict with this article.

Sec. 9. Not later than July 1, an MIHC shall file with the commissioner an annual statement containing the following information:

- (1) Audited financial statements, including:
 - (A) an income statement;
 - (B) a balance sheet;
 - (C) a statement of cash flows; and
 - (D) footnotes.
- (2) Complete information on the status of any condition imposed in connection with the approval of a plan of

1 reorganization.

2 (3) An investment plan covering all assets of the MIHC.

3 (4) A statement that the MIHC and its affiliates have
4 complied with section 13 of this chapter.

5 (5) A statement that describes any changes in the members'
6 surplus and the reason for any such change in the members'
7 surplus.

8 Sec. 10. (a) An MIHC and its affiliates constitute an insurance
9 holding company system (as defined in IC 27-1-23-1).

10 (b) Notwithstanding subsection (a), a separate filing or approval
11 is not required under IC 27-1-23 for an acquisition or a
12 reorganization that is included in a plan approved under this
13 article.

14 Sec. 11. A membership interest in an MIHC does not constitute
15 a security under Indiana law.

16 Sec. 12. (a) After the effective date of a plan of reorganization,
17 the officers and directors of the MIHC:

18 (1) owe the same fiduciary responsibilities to the members of
19 the former MIC and to new members of the MIHC as the
20 officers and directors of the former MIC owed to the
21 members before the effective date of the plan of
22 reorganization;

23 (2) are subject to potential liability to the members of the
24 former MIC and to new members of the MIHC to the same
25 extent as the officers and directors of the former MIC were to
26 the members before the effective date of the plan of
27 reorganization; and

28 (3) owe a fiduciary duty to the members of the MIHC to
29 follow the members' surplus protection principle.

30 (b) An action may be brought to recover for the violation of
31 fiduciary responsibilities under this article in accordance with
32 IC 34-11-2-4 or, in the case of fraud, in accordance with
33 IC 34-11-2-7.

34 Sec. 13. (a) The following transactions between an MIHC or an
35 affiliate of an MIHC and any person other than an affiliate may
36 not be entered into unless the MIHC has notified the commissioner
37 in writing of its intention to enter into such a transaction at least
38 thirty (30) days before entering into the transaction, or a shorter

period if permitted by the commissioner, and the commissioner has not disapproved it within that period:

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed three percent (3%) of the MIHC's assets as of December 31 of the previous year.

(2) Loans or extensions of credit to any person who is not an affiliate of the MIHC, if the MIHC makes those loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the MIHC making the loans or extensions of credit, provided those transactions are equal to or exceed three percent (3%) of the MIHC's assets as of December 31 of the previous year.

(3) Management agreements, service contracts, and costsharing arrangements.

(4) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the policyholders of affiliates of the MIHC or that do not comply with the members' surplus protection principle.

This subsection does not authorize or permit any transactions not otherwise authorized under this article.

(b) An MIHC and its affiliates may not enter into transactions that are part of a plan or series of like transactions if the purpose of those separate transactions is to avoid the statutory threshold amount and avoid the review required under this section.

(c) A stock insurance company subsidiary or intermediate stock holding company of the MIHC that has any shareholder other than the MIHC or a direct or indirect wholly owned subsidiary of the MIHC may not declare or pay any dividend or other distribution on its capital stock except to the extent of one (1) or more years of net income earned and accumulated (on a consolidated basis as to any intermediate stock holding company) after the effective date of the plan of reorganization after deduction of:

(1) income taxes; and

(2) net realized capital gains (as reduced by capital gains tax,

1 if any) on the sale of assets that were held by the MIC as of
2 the effective date of the reorganization.

3 **Chapter 4. Issuance of Capital Stock**

4 **Sec. 1. (a)** This chapter applies only to the initial public offering
5 of voting capital stock by a subsidiary of an MIHC after a
6 reorganization under this article.

7 (b) A subsidiary organized under this title may issue shares of
8 any class or type of capital stock permitted under this title, and
9 other subsidiaries, including an intermediate stock holding
10 company, may issue any type of stock permitted by the law under
11 which it is organized. However, a stock insurance company
12 subsidiary and an intermediate stock holding company may issue
13 shares of voting capital stock to a person or entity other than:

14 (1) the MIHC of which it is a subsidiary; or

15 (2) an intermediate stock holding company or stock insurance
16 company subsidiary that is a direct or indirect subsidiary of
17 the MIHC referred to in subdivision (1);

18 only in compliance with this article.

19 **Sec. 2.** A plan to issue voting capital stock under this chapter
20 must be adopted:

21 (1) by the board of directors of the MIHC; or

22 (2) in the case of a plan to issue shares of voting capital stock
23 that is not concurrent with the formation of the MIHC, by the
24 board of directors of the stock insurance company subsidiary
25 or intermediate stock holding company proposing to issue the
26 stock.

27 **Sec. 3.** A board of directors that adopts a plan to issue voting
28 capital stock under this chapter may amend or withdraw that plan
29 at any time before the effective date. However, after the
30 commissioner has approved a plan to issue voting capital stock, the
31 plan may not be amended unless the commissioner approves the
32 amendment.

33 **Sec. 4.** Within ninety (90) days after the adoption of a plan to
34 issue voting capital stock, the stock insurance company subsidiary
35 or intermediate stock holding company adopting the plan must file
36 with the commissioner an application that contains the following:

37 (1) A proposed plan to issue voting capital stock.

38 (2) The form of notice to be sent to members, informing

- 1 members of their right to vote on the plan.
- 2 (3) The form of the proxy statement to be used to solicit the
- 3 votes of members. The form must describe the plan and must
- 4 achieve a minimum score of forty (40) on the Flesch reading
- 5 ease test or an equivalent score on a comparable test
- 6 approved by the commissioner.
- 7 (4) The form of proxy to be solicited from members.
- 8 (5) A copy of the proposed articles of incorporation and
- 9 bylaws of each domestic insurance company to be formed
- 10 under the plan in compliance with the requirements of
- 11 IC 27-1-6.
- 12 (6) If it is necessary to amend the current articles of
- 13 incorporation or bylaws of a company that is affected by the
- 14 plan, a copy of the proposed articles of amendment and
- 15 amended bylaws of the company, which in the case of each
- 16 domestic insurance company must comply with the
- 17 requirements of IC 27-1-8.
- 18 (7) A list of the officers and directors of a company that is
- 19 affected by the plan.
- 20 (8) A description of:
 - 21 (A) the voting capital stock intended to be offered by the
 - 22 applicant;
 - 23 (B) all shareholder rights applicable to the voting capital
 - 24 stock intended to be offered by the applicant;
 - 25 (C) the total number of shares authorized to be issued;
 - 26 (D) the estimated number of shares the applicant intends
 - 27 to offer; and
 - 28 (E) the intended date or range of dates for the offering.
- 29 (9) A list of:
 - 30 (A) the name or names of any underwriter, syndicate
 - 31 member, or placement agent involved;
 - 32 (B) if known by the applicant, the name or names of each
 - 33 person or group of persons who will control five percent
 - 34 (5%) or more of the total outstanding shares of the class of
 - 35 voting capital stock to be offered; and
 - 36 (C) if any of the persons listed under clause (A) or (B) is a
 - 37 corporation or other business organization, the name of
 - 38 each member of its board of directors or equivalent

1 management body.

2 (10) Copies of any filings with the United States Securities and
3 Exchange Commission disclosing intended acquisitions of
4 voting capital stock of the applicant.

5 (11) A description of all expenses expected to be incurred in
6 connection with the offering.

7 (12) Any other information requested by the commissioner.

8 Sec. 5. (a) A plan to issue voting capital stock in a public offering
9 (other than an offering solely in connection with a consolidation,
10 merger, share exchange, or other business combination or an
11 offering of stock under a stock option or other employee benefit
12 plan) must do the following:

13 (1) Provide for each eligible member to receive, without
14 payment, nontransferable subscription rights to purchase a
15 portion of the voting capital stock of the applicant.

16 (2) Specify how subscription rights are to be allocated in
17 whole shares of voting capital stock among the eligible
18 members.

19 (3) Provide a fair and equitable means for allocating shares of
20 voting capital stock in the event of an oversubscription to the
21 shares by eligible members exercising subscription rights
22 received under this chapter.

23 (4) Provide that any shares of voting capital stock not
24 subscribed to by eligible members exercising subscription
25 rights received under this chapter, or not subscribed to by an
26 employee benefit plan or by directors, officers, and employees
27 exercising subscription rights, will be sold:

28 (A) in a public offering through an underwriter;

29 (B) through private placement; or

30 (C) by any other method approved by the commissioner
31 that is fair and equitable to members.

32 (5) Require a person that exercises subscription rights to:

33 (A) purchase at least the minimum number of shares of
34 voting capital stock; or

35 (B) if the person purchases less than the minimum number
36 of shares, make a purchase of shares of voting capital stock
37 in at least the minimum amount.

38 (6) Require that at least three (3) members of the board of

1 **directors of each:**

2 **(A) intermediate stock holding company; and**

3 **(B) stock insurance company subsidiary;**

4 **of the MIHC must be persons who are not officers or**
 5 **employees of the MIHC or any of its subsidiaries.**

6 **(7) Provide that the MIHC will adopt articles of incorporation**
 7 **or articles of amendment that include a provision prohibiting**
 8 **the MIHC from waiving any dividends from its subsidiaries**
 9 **except:**

10 **(A) under conditions specified in the articles of**
 11 **incorporation; and**

12 **(B) after approval of the waiver by the board of directors**
 13 **of the MIHC and by the commissioner.**

14 **(8) Establish a pricing committee within the board of**
 15 **directors of the entity making the offering of voting capital**
 16 **stock, consisting exclusively of outside directors.**

17 **(b) The minimum number of shares of voting capital stock**
 18 **established under subsection (a)(5)(A) may not be more than one**
 19 **hundred (100) shares.**

20 **(c) The minimum amount of a purchase of shares of voting**
 21 **capital stock established under subsection (a)(5)(B) may not be**
 22 **more than two thousand dollars (\$2,000).**

23 **Sec. 6. Subject to the limitations of IC 27-14-5, a plan to issue**
 24 **voting capital stock may do the following:**

25 **(1) Provide an allocation without payment of nontransferable**
 26 **subscription rights to purchase not more than ten percent**
 27 **(10%) of the total amount of outstanding voting capital stock**
 28 **to one (1) or more employee benefit plans that satisfy the**
 29 **requirements of Section 401(a), 403(b), 404(c), 408, 423, or**
 30 **501(c)(9) of the Internal Revenue Code, limited to the extent**
 31 **that unsubscribed shares of voting capital stock remain after**
 32 **the members have exercised their subscription rights.**

33 **(2) Provide for:**

34 **(A) the establishment of; and**

35 **(B) the allocation of not more than four percent (4%) of**
 36 **the total amount of outstanding voting capital stock to;**
 37 **an employee benefit plan that provides benefits that are**
 38 **subject to taxation under Section 83 of the Internal Revenue**

Code or that complies with the requirements of Section 422 of the Internal Revenue Code, for the purpose of granting stock or stock options.

(3) Provide that the articles of incorporation of a subsidiary of the MIHC may, subject to specified exceptions, prohibit a:

(A) person; or

(B) group of persons acting in concert; acting directly or through associates, from acquiring more than a specified percentage of any class of the issued and outstanding shares of capital stock of the issuing subsidiary.

(4) Provide that the aggregate number of shares of outstanding voting capital stock purchased by an eligible member that exercises subscription rights may not exceed:

(A) a specified number of shares equal to at least one percent (1%) of the total number of outstanding shares; or

(B) a specified percentage of not less than one percent (1%) of the total number of outstanding shares.

(5) Provide that subscription rights need not be granted to an eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that all of the following apply:

(A) A small number of eligible members reside in the jurisdiction.

(B) The granting of subscription rights or the offer or sale of voting capital stock to eligible members in the jurisdiction would require the issuer or its officers or directors to:

(i) register, under the securities laws of the jurisdiction, as a broker, dealer, salesman, or agent; or

(ii) register, or otherwise qualify, the voting capital stock for sale in the jurisdiction.

(C) The registration, qualification, or filing in the judgment of the commissioner would be impracticable or unduly burdensome for reasons of cost or otherwise.

Sec. 7. Notwithstanding any provision of this article, an MIHC or an affiliate of an MIHC may not use any form of a stock option or other preference with respect to the sale or purchase of any voting capital stock or other equity instrument of the MIHC or an

1 affiliate of the MIHC to compensate an officer or director of the
 2 MIHC or an affiliate of the MIHC for services in connection with
 3 a plan to issue stock.

4 **Chapter 5. Restrictions on Capital and Other Stock**

5 **Sec. 1. A plan to issue voting capital stock that is filed with the**
 6 **commissioner under this article must do the following:**

7 (1) Describe the reasons for and the purposes of the proposed
 8 issuance of shares of voting capital stock and the manner in
 9 which the issuance is expected to benefit and serve the best
 10 interests of the members.

11 (2) Require that, after the effective date, the MIHC must at all
 12 times have the direct or indirect power to cast at least
 13 fifty-one percent (51%) of the votes for the election of
 14 directors of each stock insurance company subsidiary and any
 15 intermediate stock holding company.

16 (3) Provide that the aggregate number of shares of voting
 17 capital stock owned by all of the directors and officers of the
 18 MIHC and its subsidiaries and associates may not exceed:

19 (A) within five (5) years after the initial issuance of voting
 20 capital stock, five percent (5%) of the total number of
 21 shares of voting capital stock to be issued; and

22 (B) more than five (5) years after the initial issuance of
 23 voting capital stock, ten percent (10%) of the total number
 24 of shares of voting capital stock to be issued;

25 including any shares acquired by the officers and directors
 26 and their associates through discounted subscriptions,
 27 employee benefit plans, or stock options.

28 (4) Provide that the aggregate number of shares of voting
 29 capital stock purchased by:

30 (A) a single director or officer of the MIHC or the
 31 subsidiaries of the MIHC;

32 (B) associates of the person referred to in clause (A); and

33 (C) persons acting in concert with the person referred to in
 34 clause (A) or (B);

35 may not exceed five percent (5%) of the total number of
 36 shares to be issued under the plan, including any shares
 37 attributed to the officers and directors and their associates
 38 but held by one (1) or more tax qualified employee benefit

- 1 plans.
- 2 (5) Provide that the aggregate number of shares of all
- 3 nonvoting equities and other nonvoting dividend paying
- 4 instruments owned by all of the directors and officers of the
- 5 MIHC and its subsidiaries and associates may not exceed:
- 6 (A) within five (5) years after the initial issuance of voting
- 7 capital stock, five percent (5%) of the total number of
- 8 shares of nonvoting equities or other nonvoting dividend
- 9 paying instruments to be issued; and
- 10 (B) more than five (5) years after the initial issuance of
- 11 voting capital stock, ten percent (10%) of the total number
- 12 of shares of nonvoting equities or other dividend paying
- 13 instruments to be issued.
- 14 (6) Provide that the aggregate number of shares of nonvoting
- 15 equities or other nonvoting dividend paying instruments
- 16 purchased by:
- 17 (A) a single director or officer of the MIHC or the
- 18 subsidiaries of the MIHC;
- 19 (B) associates of the person referred to in clause (A); and
- 20 (C) persons acting in concert with the person referred to in
- 21 clause (A) or (B);
- 22 may not exceed five percent (5%) of the total number of
- 23 shares of nonvoting equities and other nonvoting dividend
- 24 paying instruments to be issued under the plan, including any
- 25 nonvoting equities or instruments attributed to the officers
- 26 and directors and their associates but held by one (1) or more
- 27 tax qualified employee benefit plans.
- 28 (7) Provide that a director, officer, agent, or employee of the
- 29 MIHC or its subsidiaries, or an associate of a director, officer,
- 30 agent, or employee, may not receive a fee, commission, or
- 31 other valuable consideration for aiding, promoting, or
- 32 assisting in the issuance of voting capital stock under this
- 33 section, except for:
- 34 (A) compensation as provided for in the plan and approved
- 35 by the commissioner;
- 36 (B) the person's usual, regular salary or compensation;
- 37 and
- 38 (C) reasonable fees and compensation paid to an individual

1 who is an attorney, accountant, or actuary for services
 2 performed in the individual's independent practice, even
 3 if the individual is also a director, officer, agent, or
 4 employee of the MIHC or its subsidiaries.

5 (8) Provide that the aggregate number of shares of voting
 6 capital stock that may be purchased by an employee benefit
 7 plan may not exceed ten percent (10%) of the total number of
 8 shares to be issued under the plan.

9 (9) Describe:

10 (A) how the offering price of the voting capital stock to be
 11 sold is established; or

12 (B) the method by which the offering price will be
 13 determined.

14 **Chapter 6. Public Hearing, Commissioner Approval, and**
 15 **Effective Date of Plan to Issue Stock**

16 **Sec. 1. Not more than:**

17 (1) sixty (60) days after the acceptance of an application filed
 18 with respect to a plan to issue stock under IC 27-14-4; or

19 (2) a longer period after the application is filed, as determined
 20 by the commissioner upon a showing of good cause;

21 the commissioner may conduct a public hearing in Indianapolis at
 22 a place, date, and time specified by the commissioner to afford
 23 interested persons an opportunity to present information, views,
 24 arguments, or comments in regard to the plan.

25 **Sec. 2. (a) At least thirty (30) days before a hearing held under**
 26 **this chapter, the commissioner shall publish notice of the hearing**
 27 **in a newspaper of general circulation in:**

28 (1) the city of Indianapolis;

29 (2) the city in which the principal office of the applicant is
 30 located; and

31 (3) another city or cities that the commissioner considers
 32 appropriate;

33 may provide written notice of the hearing by other means and to
 34 other persons that the commissioner considers appropriate.

35 (b) The notice provided under this section must:

36 (1) refer to the applicable statutory provisions;

37 (2) state the date, time, and location of the hearing; and

38 (3) include a brief statement of the subject of the hearing.

1 **Sec. 3. At a public hearing on a plan to issue stock held under**
 2 **this chapter:**

3 **(1) a member or any other interested person may appear and:**

4 **(A) file a written statement; or**

5 **(B) make an oral presentation; and**

6 **(2) at the discretion of the commissioner or the**
 7 **commissioner's appointee, testimony may be taken under oath**
 8 **or by affirmation.**

9 **Sec. 4. In compliance with the later of:**

10 **(1) sixty (60) days after a public hearing held under this**
 11 **chapter; or**

12 **(2) one hundred twenty (120) days after the commissioner**
 13 **accepts the application relating to the plan;**

14 **the commissioner shall approve or disapprove the plan under**
 15 **IC 27-14-4 to issue stock.**

16 **Sec. 5. The commissioner shall approve a plan to issue stock**
 17 **submitted under IC 27-14-4 unless the commissioner makes at least**
 18 **one (1) of the following findings with respect to the plan:**

19 **(1) Disapproval of the plan is necessary to prevent practices**
 20 **that will cause financial impairment to the applicant or its**
 21 **subsidiaries.**

22 **(2) The financial or management resources of the applicant or**
 23 **its subsidiaries or affiliates warrant disapproval.**

24 **(3) The plan does not comply with the provisions of this**
 25 **article.**

26 **(4) The proposed plan is unfair to members.**

27 **(5) The plan does not comply with the members' surplus**
 28 **protection principles of this article.**

29 **Sec. 6. (a) The commissioner shall immediately notify the**
 30 **applicant upon reaching a decision on a plan submitted under this**
 31 **chapter.**

32 **(b) If the commissioner disapproves a plan, the commissioner**
 33 **shall provide the applicant with a written statement detailing the**
 34 **reasons for the disapproval.**

35 **(c) A decision of the commissioner approving a plan to issue**
 36 **stock must specify the method by which the offering price will be**
 37 **determined.**

38 **Sec. 7. The approval by the commissioner of a plan to issue**

1 stock expires one hundred eighty (180) days after the date of
 2 approval, except as otherwise provided by an order of the
 3 commissioner.

4 Sec. 8. The organization of a domestic insurance company under
 5 a plan under this article must be conducted in compliance with the
 6 provisions of IC 27-1-6 concerning the formation of domestic
 7 insurance companies, except as provided in this chapter.

8 Sec. 9. The amendment of the articles of incorporation of a
 9 domestic insurance company under a plan under this article must
 10 be conducted in compliance with IC 27-1-8, except as provided in
 11 this chapter.

12 Chapter 7. Miscellaneous Provisions

13 Sec. 1. (a) This article, while independent of any other law, is
 14 supplemental to IC 27-1-2 through IC 27-1-20.

15 (b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and
 16 completely applicable to this article in the same manner as if the
 17 provisions of this article had been an original part of IC 27-1-2
 18 through IC 27-1-20. If any conflict exists between this article and
 19 IC 27-1-2 through IC 27-1-20, this article is controlling.

20 Sec. 2. A civil action:

21 (1) challenging the validity of; or

22 (2) arising out of;

23 action that is taken or proposed to be taken under this article must
 24 commence not later than sixty (60) days after the approval by the
 25 commissioner of the plan under which or in respect of which the
 26 action is taken or proposed to be taken.

27 Sec. 3. The provisions of this article are severable in the manner
 28 provided in IC 1-1-1-8(b).

29 Sec. 4. (a) A person who is aggrieved by an agency action of the
 30 commissioner under this article may petition for judicial review of
 31 the action under IC 4-21.5-5.

32 (b) A person who is aggrieved by a failure of the commissioner
 33 to act or make a determination required by this article may bring
 34 an action for mandate in the circuit court of Marion County to
 35 compel the commissioner to act or make the determination.

36 Sec. 5. An MIHC and its subsidiaries and affiliates may not do
 37 any of the following:

38 (1) Lend funds to any person to finance the purchase of stock

1 in a stock offering by an MIHC or any of its subsidiaries other
 2 than policyholder loans granted under the terms of an
 3 insurance policy of a subsidiary.

4 (2) Pay commissions, special fees, or other special or
 5 extraordinary compensation to officers, directors, interested
 6 persons, or affiliates for arranging, promoting, aiding,
 7 assisting, or participating in the structure or placement of a
 8 stock offering by the MIHC or any of its subsidiaries, except
 9 to the extent permitted under IC 27-14-4.

10 (3) Enter into an understanding or agreement transferring
 11 legal or beneficial ownership of stock to another person in
 12 avoidance of this article.

13 Sec. 6. A stock insurance company subsidiary to which
 14 insurance policies, contracts, and other assets and obligations are
 15 transferred in connection with a plan of reorganization under this
 16 article has, with respect to the insurance policies, contracts, and
 17 other assets and obligations, all rights, liabilities, and authority of
 18 the MIC that is the subject of the plan of reorganization. An MIHC
 19 resulting from a plan of reorganization of an MIC under this
 20 article has all obligations and liabilities of the MIC for any claims,
 21 asserted or otherwise, relating to the ownership interests of the
 22 policyholders or members of the MIC, or to the value of the
 23 ownership interests, that existed at the effective date of the
 24 reorganization.

25 Sec. 7. If a proceeding is pending against an MIC that is the
 26 subject of a plan of reorganization under this article:

27 (1) the proceeding may be continued after the effective date,
 28 as if the reorganization had not occurred; or

29 (2) the stock insurance company subsidiary that succeeds to
 30 the MIC's business may be substituted in the proceeding for
 31 the MIC;

32 except that the MIHC resulting from the plan of reorganization
 33 shall be substituted for the MIC and any subsidiaries of the MIC
 34 in all proceedings involving claims relating to the ownership
 35 interests of the policyholders or members of the MIC, or to the
 36 value of the ownership interests, that existed at the effective date
 37 of the reorganization.

38 Sec. 8. Subject to IC 27-14-1-2, an MIHC may convert to a stock

1 insurance holding company under IC 27-1-8-13 as though the
2 MIHC were an MIC.

3 Sec. 9. The commissioner shall, at the applicant's expense, hire
4 attorneys, actuaries, accountants, investment bankers, and other
5 experts as may be necessary to assist the commissioner in
6 reviewing all matters under this article that are associated with a
7 plan of reorganization or a plan to issue stock. The commissioner
8 may at any time require an applicant to deposit an amount of
9 money with the department of insurance in anticipation of
10 expenses to be incurred by the commissioner under this article.

11 SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE
12 JANUARY 1, 1999 (RETROACTIVE)]: IC 6-5.5-2-2; IC 6-5.5-2-5;
13 IC 6-5.5-2-5.3.

14 SECTION 29. [EFFECTIVE JANUARY 1, 1999
15 (RETROACTIVE)]: IC 6-5.5-2-1, IC 6-5.5-2-3, 6-5.5-2-4, and
16 IC 6-5.5-4-1, all as amended by this act, apply to taxable years that
17 begin after December 31, 1998.

18 SECTION 30. An emergency is declared for this act.

19 Renumber all SECTIONS consecutively.

(Reference is to HB 1899 as introduced.)

and when so amended that said bill do pass.

Representative Bauer